

The Parliament of the Commonwealth of Australia

**News & Fair Facts
The Australian Print Media Industry**

**Report from the House of Representatives
Select Committee on the Print Media**

March 1992

**Australian Government Publishing Service
Canberra**

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ISBN 0 644 24409 7

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THE PRINT MEDIA**

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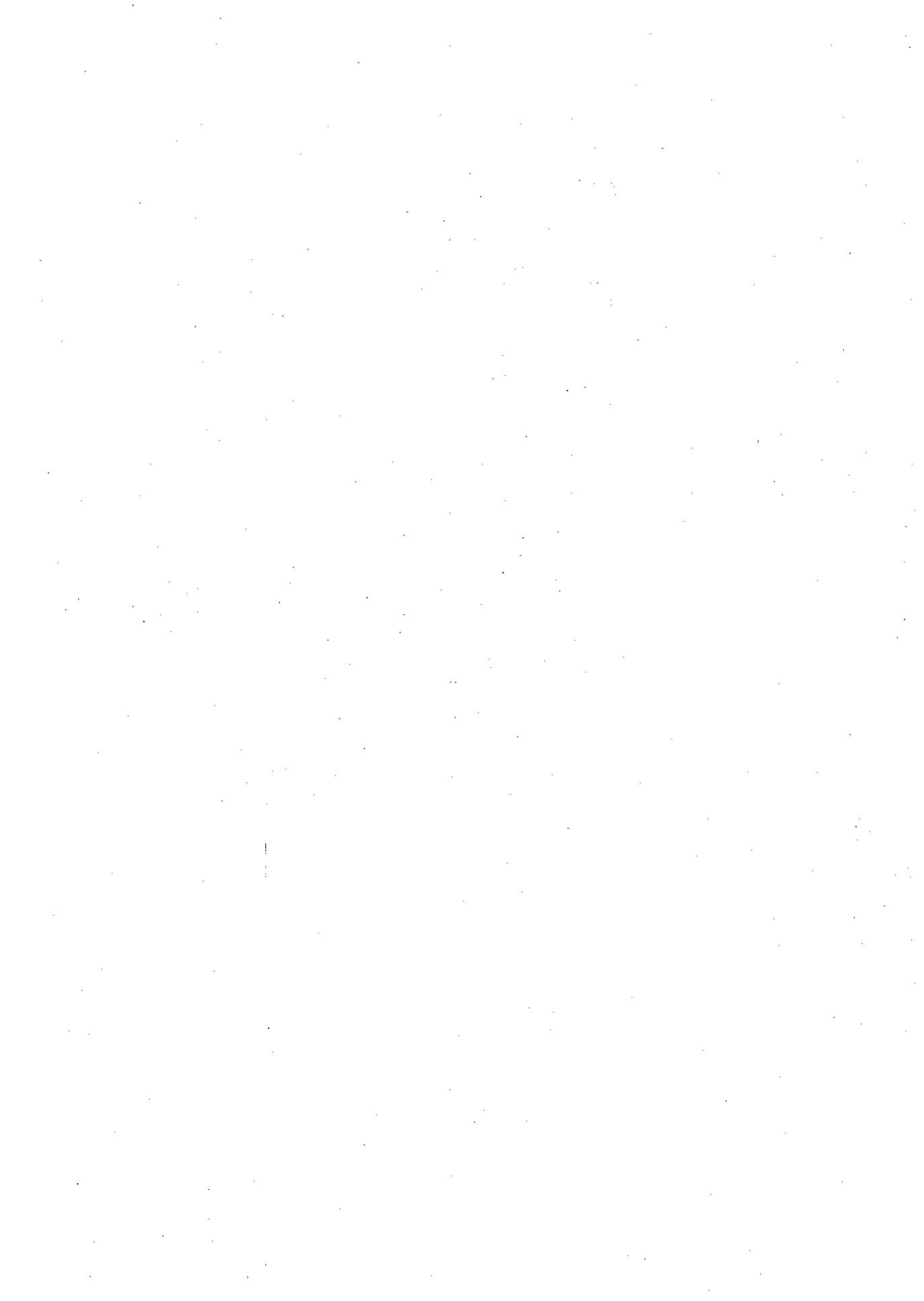
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PREFACE

This report from the House of Representatives Select Committee on the Print Media is the culmination of a short, sharp, exhaustive and sometimes exhausting inquiry into the Australian print media. Many thanks are due.

On behalf of the Committee, I would like to thank the many individuals, organisations and companies who prepared submissions and/or appeared before the Committee.

I also wish to place on record my appreciation to our five person secretariat who burnt the midnight oil from September to March: Malcolm Aldons, Franco Papandrea, Susan Johnston, Sue Morton and Sally Dunn. We appreciate their assistance in running an efficient Inquiry and preparing a quality report. Thanks must also be conveyed to the Bureau of Transport and Communications Economics and the Trade Practices Commission for releasing staff to assist the Committee during its Inquiry.

Finally, I thank the Members of the Committee for their contributions. Despite heavy parliamentary and electorate commitments, they devoted much time and effort into ensuring that this Inquiry was fair and that our report justified that investment.

Like its electronic counterpart, the print media industry is an area of intense public interest and concern. People hold very different and sometimes passionate views about what public policy should be in both the electronic and print media. This stems from the importance of the media in influencing public opinion. The Committee's Report, *News and Fair Facts - The Australian Print Media Industry*, offers the Parliament some proposals which the Committee believes will encourage competition and diversity in the print media industry.

No report from this Committee could satisfy everyone. I am confident, however, that it will contribute significantly to informed debate on the future of the Australian print media industry, and provide the basis for speedy legislative action by the Parliament.



MICHAEL LEE MP
Chairman
5 March 1992

**TERMS OF REFERENCE
PRINT MEDIA INQUIRY**

To inquire into and report on:

- (a) structural factors in the print media industry inhibiting competition between publications, including ownership, production (including paper supply) and distribution arrangements;
- (b) the print media's distribution and information gathering arrangements;
- (c) the extent to which the ownership or control of various sectors of the print media industry provides a barrier to entry by competitive alternatives;
- (d) the adequacy of current Commonwealth legislation and practices to foster competition and diversity of ownership in the print media; and
- (e) the practicability of editorial independence between proprietors and journalists.

OVERVIEW

Background

1. The establishment of the Committee followed increasing debate about concentration of ownership in the print media fuelled by the takeover of the Herald and Weekly Times by News Limited in 1987 and the appointment of a receiver to the John Fairfax Group in 1990.
2. The report discusses various overseas inquiries which have investigated newspaper ownership concentration and made recommendations to encourage competition and diversity of opinion. In most cases, however, the governments which received those recommendations did not implement them.
3. Prior to the establishment of this Committee, the only major inquiry into the print media in Australia, was conducted in Victoria in 1981. The Norris inquiry found a very high and increasing concentration of ownership and control of newspapers in Victoria and warned of the associated dangers, namely the potential loss of diversity and the power of a few proprietors to influence the opinions of society. The recommendations of the Norris inquiry were not implemented by the Thompson or Cain Victorian Governments. To date, a similar fate has befallen the recommendations of the Working Party into Print Media Ownership which reported to the Attorney-General of Victoria in December 1990.

4. The print media industry is not as highly regulated as the electronic media in most western countries. In addition to general competition laws, some countries make special provision for newspapers. For example, the UK Fair Trading Act has a special section aimed at ensuring that newspaper mergers do not endanger diversity of opinion and accurate presentation of news. In the United States, the Newspaper Preservation Act exempts joint newspaper operating agreements from the general anti-trust laws. In contrast, Sweden has specific legislation governing the press and provides extensive subsidies to newspapers.

5. In Australia, the print media industry is subject to the Trade Practices Act and cross-media ownership rules set out in the Broadcasting Act. Advice from the Attorney-General's Department to the Committee indicates that the Federal Parliament has the constitutional power to regulate corporations involved in the print media. The question which this report addresses is what, if any, additional regulation of the Australian print media is required?

The Print Media Industry

6. Concentration of ownership of the print media appears to be driven by economic forces which inexorably favour monopoly newspapers in a particular market segment and group ownership of newspapers in different markets. These forces arise from economies of scale inherent in newspaper publishing. While there is some competition between newspapers and other media for both audiences and advertising, the level of competition is not high as advertisers use the various media for largely different functions. For example, a national fast food chain which uses extensive television

advertising to promote the association of its products with a desirable lifestyle would be unlikely to redirect this advertising to newspapers if television advertising rates increase. Similarly, newspaper classified and supermarket display advertisements are unlikely to be transferred to television.

7. The Committee's analysis of the print media was hampered by the lack of data and the paucity of research studies. The industry is served poorly by official statistics and even basic information is lacking. The Committee has recommended that the Australian Bureau of Statistics regularly collect and publish information on the characteristics and performance of the Australian print media industry.

Concentration and Competition

8. The Australian print media industry is highly concentrated. In almost every sector of the industry, one or two groups dominate in terms of the number of publications and the related circulation under their control. The highest level of concentration exists in metropolitan/national newspapers. Suburban newspapers are also highly concentrated with monopoly ownership being a feature of this sector in Adelaide and Perth. Although ownership of the national magazine sector is widely dispersed, many magazines have relatively small, specialised readership. Ownership of the major, high circulation magazines is concentrated within two groups.

Barriers to Entry

9. A high level of concentration would not be a problem if the print media market were highly contestable. In such a situation the mere threat of entry into the market by a new publisher would act as a *constraining force on the activities of established proprietors*. There was general agreement that the barriers to entry are high for aspiring publishers of metropolitan or national daily newspapers, but that enterprising publishers could break into niche markets.

10. Although there are virtually no regulatory barriers (cross-media rules being an exception), economic barriers to entry are relatively high, particularly for newspapers. Until a new entrant achieves economies of scale, average cost of production and distribution (per copy) will be substantially higher than those of its established competitors. Readers' habits and their loyalty to established mastheads will make it difficult to attract circulation and increase the risk of failure. Furthermore, the need to commit large amounts of capital to specialised equipment and facilities means that failure would be accompanied by large losses because the equipment and facilities are not easily adaptable to alternative uses.

11. The high fixed costs of newspaper production, including virtually all the costs of collecting information and preparing a newspaper for printing, mean that the average cost of production per copy declines rapidly with increases in the number of copies printed. This gives an established newspaper a relatively large cost advantage over new entrants with lower circulation. Also, since advertisers favour higher circulation and are

prepared to pay a premium for it, the new entrant will receive a lower return per copy sold. Similar scale factors apply to the distribution of newspapers.

12. Additional benefits accrue to publishers of more than one publication at the same or different locations (group economies). These benefits arise from the ability to share production and distribution facilities, and other facilities and services such as computers, facsimiles, library services, copy swapping and foreign correspondents.

13. The existence of barriers to entry to print media markets was overwhelmingly, but not universally, acknowledged by witnesses. The Committee is convinced of the existence of formidable barriers which militate against the successful establishment of new metropolitan or national daily newspapers. Entry to other segments of the print media is not as difficult. Although the prospect of entry to magazine publishing and suburban and regional newspaper publishing is less daunting, the predominance of the major publishing groups will see new publishers entering at a distinct disadvantage.

Vertical Integration

14. Vertical integration represents another barrier to entry to the print media industry. Some degree of vertical integration is a relatively common feature of print media groups, particularly those engaged in the publication of metropolitan daily newspapers. News Limited, for example, owns half of ANM (the only newsprint manufacturer in Australia), 43.4 per cent of AAP (the main independent news source) and shares a significant

degree of control over the distribution of print media products. Vertical integration may provide substantial competitive advantages over rivals if it confers preferential access to scarce supply or facilities or access on especially attractive terms.

15. The main advantage enjoyed by News Limited in purchasing newsprint from ANM is security of domestic supply. The advantage, however, reflects the size and importance of News Limited as a customer of ANM rather than the part-ownership link and is available to other customers entering into long term supply contracts with ANM. These contracts also leave News Limited exposed to higher costs if the *international spot price for newsprint falls below that charged by ANM*. The committee received no evidence that indicated ANM gave preferential treatment to News Limited on newsprint prices or delivery times.

16. The Committee was concerned about the effects of the AAP pricing policy, which sets a price for each metropolitan area based on its population. The policy does not encourage new entrants and acts to reduce the cost of the news service to established publishers when new entrants seek access to the service. Furthermore, since the pricing policy does not take account of the circulation of the subscribers' publications it generates further economies of scale and places lower circulation publications at a disadvantage. There was no suggestion, however, that anyone had been denied access to the service.

17. There is no doubt that the current newsagency system provides definite competitive advantages to incumbent publishers who are members of the Newsagency Councils. The advantages include ability to influence the

business operations of newsagents (e.g. opening hours and home delivery), influence on the range of publications stocked by the newsagents and access to customer base details for marketing purposes. On the other hand, the newsagency system encourages the carrying of a large range of publications, some of which have low circulations unlikely to be attractive to other retailers. In addition, newsagents claimed that loss of exclusive areas will threaten the home delivery service.

18. Overall, it is not suggested that vertical integration by the major publishers has been set up deliberately to discourage new entrants. Rather, it is a feature of the industry (similar to economies of scale) which inhibits new entry.

Improving Competition and Diversity

19. Competition and diversity of views are inextricably linked. More sources of information are more likely to offer readers wider diversity than fewer sources. While the range of views offered by a wide circulation newspaper has to be necessarily broad, it is unlikely that such a newspaper will offer views which appeal to minorities but which may offend the sensitivities of other readers. Also, it is likely that two newspapers will regularly interpret the same stories differently.

20. Some Members of the Committee concluded that there was a connection between the unprecedentedly high concentration of media ownership and the lack of diversity of information and ideas in the Australian press, and that the former is likely to be a significant cause of the latter. However, a majority of the Committee considered that there was

insufficient evidence to conclude that the current high level of concentration in the Australian print media has resulted in biased reporting, news suppression or lack of diversity. All Members agreed that concentration of ownership is potentially harmful to plurality of opinion and increases the potential risk that news may be distorted.

21. The Committee considered but rejected calls for some form of divestiture and the imposition of numerical limits on the number of newspapers or magazines which any one proprietor can own. The Committee decided that in addition to the argument that such drastic action would be inherently unfair, it would be difficult to implement and would raise questions about the continued viability of some units that would be created as a result.

22. The Committee therefore concluded that the preferred course of action was to encourage greater competition in the Australian print media and wider diversity of ownership over time by recommending amendments to the Trade Practices Act.

23. The print media industry, like others, is currently subject to the Trade Practices Act. The provisions of the Act are essentially economic in nature. However, at authorisation hearings wider examination of the public benefit or detriment of proposals are taken into consideration by the Trade Practices Commission.

24. The Committee concluded that the process (as distinct from the criteria) for ensuring competition and thus encouraging diversity of opinion is adequate. However, whether the application of this process ultimately

leads to adequate levels of competition and diversity depends entirely on the criteria on which the process is based.

25. The current dominance threshold for mergers has failed to preserve a desirable level of competition in some sections of the print media, particularly metropolitan daily newspapers. While the significant expansion of broadcasting services and the introduction of cross-media ownership restrictions have balanced in many ways the effects of concentration in print media, they would not justify further increases in newspaper ownership concentration. It is important, therefore, to ensure that existing relevant laws foster competition and diversity of opinion in newspapers.

26. Further concentration in the ownership of metropolitan daily newspapers is unlikely to be in the public interest. Consequently, the risk that it might occur should be minimised. In doing so, however, care should be taken to ensure that unnecessary distortions to market forces are not introduced. A tightening of the merger threshold would satisfy these requirements.

27. The Committee has noted that both the Martin Report on banking and the Cooney Report on mergers, monopolies and acquisitions have recommended that the merger test be tightened from 'dominance' to 'a substantial lessening of competition'. The Cooney Report concluded that arguments for a tightening of the merger threshold were particularly strong for industries not exposed to import competition or where high barriers to entry exist. The print media industry exhibits both of these features.

28. The Committee concluded that there were very strong justifications for the adoption of a 'substantial lessening of competition' threshold for print media mergers. This report examined the print media industry only and therefore makes no recommendations on whether the merger test should be tightened for other industries. However, if the Government implements the Cooney Report, this Committee's recommendation that a 'substantial lessening of competition' test apply to print media mergers would have the advantage of being consistent across all industries.

29. A substantial lessening of competition test, on its own, will not dispel community concerns about the public detriment which may result from undue concentration of print media. Diversity of opinion and truth and accuracy in reporting are of fundamental importance to the public interest. While no law will be able to totally guarantee these ideals, steps can be taken to ensure that any potential threat to them which may arise from a merger or acquisition, is fully evaluated in a forum which allows all interested parties the opportunity to air their concerns.

30. The Committee concluded that merger authorisations should include mandatory consideration of some of the special aspects of the print media industry. Therefore, the Trade Practices Act should be amended to incorporate a new section specific to the print media requiring authorisations to examine and take account of the likely impact of a merger on:

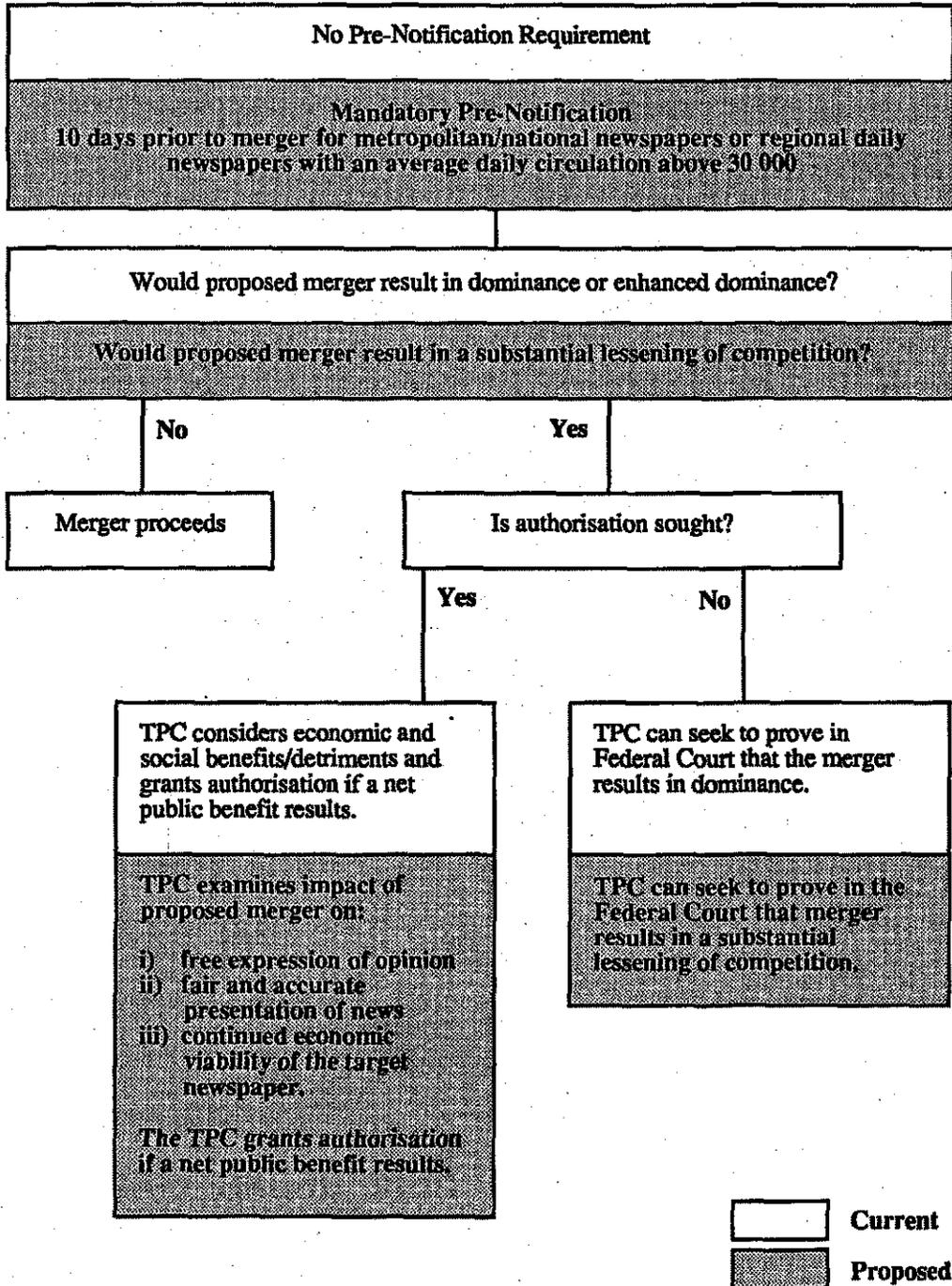
- (i) free expression of opinion;
- (ii) fair and accurate presentation of views; and

- (iii) the economic viability of the publication if the merger does not proceed.

31. The Committee also considered that print media mergers or acquisitions which are likely to raise community concerns should be subject to mandatory notification. Mandatory notification would provide the Trade Practices Commission with the opportunity to fully assess whether a proposed merger should be required to seek authorisation. The Committee proposes that notification should be provided at least 10 days before the merger is effected. Such a requirement would be consistent with the current provisions of the Broadcasting Act in respect of breaches to ownership, cross-media and foreign ownership limits. The proposal for mandatory notification would be limited to print media mergers involving metropolitan/national newspapers or regional daily newspapers with an average circulation of at least 30 000.

32. The Committee's proposals, if implemented by the Government, to amend the Trade Practices Act would affect future print media mergers. The history of newspaper corporations, both in Australia and overseas, suggests that the current highly concentrated pattern of ownership of the print media industry will not continue indefinitely. When the existing concentration begins to break down, it is essential that the Trade Practices legislation then acts to promote competition and diversity of ownership. The effect of the Committee's proposed amendments to the Trade Practices Act are illustrated in Figure 1 at page xxvi.

Figure 1: Current and Proposed Requirements for Print Media Mergers



Editorial Independence

33. Concerns about the impact of ownership concentration on diversity of views have prompted calls for guarantees of editorial independence. The major concerns in this regard were that ownership concentration may prevent society's access to a plurality of views and the possibility that owners may bias reporting or suppress views which could conflict with their wider commercial interests. Charters of editorial independence and other mechanisms such as adherence to the AJA Code of Ethics and contracts for editors were suggested as possible solutions.

34. Separation of the legitimate business interests of the proprietor from the editorial process by means of a charter may not be entirely possible. If proprietors and their staff develop them in a spirit of mutual cooperation and respect, that may be good for that particular company. However, if there is a lack of willingness on either side, then the presence of a charter would not prevent undue intervention anyway. The Committee concluded that, despite the desirability of conduct and standards implied by charters, newspaper proprietors should not be required by legislation to sign charters of editorial independence.

35. Similarly, contracts for editors could be useful in separating the business function from the editorial process. They are also matters for the different parties to achieve through negotiation.

36. The AJA Code of Ethics seems to provide a practical framework for editorial independence. In setting out a framework within which journalists can operate, the Code has application to their employers as well.

For this reason, the Committee encourages proprietors and editors to join with journalists in agreeing to the Code as the overriding principles governing the performance of their duties. The Committee recommended that a commitment to these principles be included in contracts of employment for journalists.

Press Council

37. There will always be some concern or dissatisfaction with the manner in which certain subjects are dealt with or indeed are not dealt with by Australia's print media. In order to provide recourse for people in this situation the Australian Press Council has been established to deal with complaints. The Press Council, however, has been the subject of criticisms during this Inquiry. The major areas of concern include the structure of the Council and the publishing of reports of Press Council judgements.

38. There was a perception that the current structure was not working effectively, particularly since the AJA terminated its involvement in 1987. The Committee considers that the Council should be restructured to include representatives of the AJA and that there should be equal representation of publishers, journalists and the public. An independent chair and public members should be jointly appointed by agreement between the AJA and the publishers. The restructured Press Council should also more actively promote its complaints procedures, make it easier to lodge complaints and establish a more effective mechanism to deal with them.

39. The Committee was also concerned that Press Council reports are not being published, or that if they are, they are being 'watered down'. The Committee concluded that an Australian newspaper or magazine should be required to publish Press Council reports on complaints about articles it has published.

Cross-Media Ownership

40. Both print and electronic media have the power to influence public opinion. Cross-media ownership rules, which limit common ownership of television, radio and newspapers have been very effective in breaking up the conglomerates which existed before 1987. National newspapers and magazines are not included. Some Members of the Committee argued strongly that a zero or 5 per cent limit should apply to cross-media ownership, but in the final analysis the Committee agreed that emphasis should be placed on whether or not control was being exercised as proposed in the Draft Broadcasting Services Bill. The Committee strongly supports the retention of the cross-media ownership rules, including those which apply to radio. However, the Government may need to review this matter as new technology expands the number of radio services available. Cross-media ownership restrictions and the wide range of services likely to result from technological change should substantially increase diversity and should limit concentration of influence on public opinion.

Foreign Investment

41. The Committee considered that it is contradictory to seek increased diversity of ownership on the one hand whilst at the same time prohibiting any foreign investment in Australian newspapers. Such a ban is not practical. The Committee recommended that the FIRB continue to examine all foreign investment proposals in the print media. The Committee also recommended that, subject to normal national interest requirements, proposals up to 20 per cent foreign control should be approved. The Committee recognises that the present 20 per cent limit on foreign ownership is an arbitrary figure. While it is consistent with other arbitrarily determined limits (as for television) it is of concern to some members of the Committee that it has become a benchmark figure. The best reason for using such a figure is to act as a guideline for prospective investors which alerts them to the important public policy considerations in this industry. The 20 per cent limit should be viewed in this context. Proposals involving high levels of foreign control should be approved only if the Government believes that a strong case has been made that it is in the national interest or other arguments apply. Finally, given the importance of the print media the Committee considers that the Treasurer should always publish reasons for accepting or rejecting proposals for foreign investment in the print media.

42. On most issues considered by the Committee there was unanimity of views. However, some Members did not agree with some of the proposals for change recommended by the majority of the Committee. Their dissents are recorded at page 345 and subsequent pages of this report.

RECOMMENDATIONS

Recommendation 1: Better Statistics

The Committee recommends regular collection and publication of information on the characteristics and performance of the Australian print media industry by the Australian Bureau of Statistics. (Paragraph 3.15)

Recommendation 2: Improving Competition and Diversity

The Committee recommends:

- . adoption of the substantial lessening of competition threshold for print media mergers;
- . mandatory 10 day pre-notification of print media mergers involving metropolitan/national newspapers or regional daily newspapers with an average daily circulation in excess of 30 000 copies;
- . incorporation of a special print media merger section in the Trade Practices Act requiring authorisations to examine and take account of the likely impact of a merger on:
 - (i) free expression of opinion;
 - (ii) fair and accurate presentation of news;and

- (iii) the economic viability of the publication if the merger does not proceed.
(Paragraph 7.119)

Recommendation 3: A Restructured Press Council

The Committee recommends that:

- . the Press Council be restructured;
- . it be funded by the print media industry;
- . the Council be adequately resourced to publicise its activities and deal with complaints;
- . it be constituted by equal representatives of the public, publishers and the AJA;
- . an independent chair and the remaining members of the public be appointed by agreement between the publishers and the AJA; and
- . each publisher be required to publish in full in a manner determined by the Council any matter affecting a particular publication.

Further, the Committee recommends that the Minister for Transport and Communications convene a meeting of representatives of the publishers and

the AJA at the earliest opportunity to discuss the implementation of this restructuring. (Paragraph 8.118)

Recommendation 4: Editorial Independence

The Committee rejects calls for legislative requirements for mechanisms to support editorial independence and recommends that the Government convey to the print media industry the Committee's preference for the following:

- proprietors, editors and journalists are encouraged to subscribe to the principles of the Code of Ethics of the Australian Journalists' Association, especially in employment contracts;
- contracts for editors, whilst supported in principle, are a matter for individual proprietors and editors;
- a restructured Press Council should improve accessibility to the complaints handling process and require publication of their reports. (Paragraph 8.127)

Recommendation 5: Cross-Media Ownership

The Committee concludes that cross-media ownership rules have acted to enhance diversity of ownership in the Australian print media. The Committee recommends that:

- in the current circumstances, cross-media ownership limits for radio be retained. However, the Government may need to review this matter as new technology expands the number of radio services available; and

- the Government proceed with amendments to the other parts of the cross-media ownership rules in the Broadcasting Services Bill 1992 (Exposure Draft) which uses the concept of control to underpin limits on cross-media ownership and presumes that a holding of 15 per cent or more gives a person control, in the absence of proof to the contrary. (Paragraph 9.48)

Recommendation 6: Foreign Investment

The Committee recommends that:

- the Foreign Investment Review Board continue to examine all foreign investment proposals in the print media;

- Government guidelines for foreign investment in the print media be amended to show that, subject to the normal national interest requirements, proposals with up to 20 per cent foreign control be approved;

- . for all proposals above 20 per cent a case would have to be made that the proposal is in the national interest or that special arguments (e.g. failing company) apply; and
- . the Treasurer publish reasons for accepting or rejecting foreign investment proposals in the print media. (Paragraph 9.93)

ABBREVIATIONS

AAP	Australian Associated Press
ABA	Australian Broadcasting Authority
ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ABT	Australian Broadcasting Tribunal
ACIJ	Australian Centre for Independent Journalism
ACP	Australian Consolidated Press Limited
ACTU	Australian Council of Trade Unions
AFP	Agence France-Presse
AJA	Australian Journalists' Association
ANM	Australian Newsprint Mills Limited
AP	Associated Press (of America)
APN	Australian Provincial Newspapers
ASC	Australian Securities Commission
ASIC	Australian Statistical Industry Classification
AT&T	American Telephone & Telegraph
BHP	Broken Hill Proprietary Co. Ltd
BTCE	Bureau of Transport and Communications Economics

CEASA	Commercial Economic Advisory Service of Australia
CLC	Communications Law Centre
Cooney Report	Report from the Senate Standing Committee on Legal and Constitutional Affairs: <i>Mergers, Monopolies & Acquisitions - Adequacy of Existing Legislative Controls</i>, December 1991
CPH	Consolidated Press Holdings Ltd
FIRB	Foreign Investment Review Board
Griffiths Report	Report from the House of Representatives Standing Committee on Legal and Constitutional Affairs: <i>Mergers, Takeovers and Monopolies - Profiting from Competition</i>, May 1989
HWT	Herald and Weekly Times Ltd
INP	Independent Newspapers PLC
JOA	Joint Operating Agreement
Kent Report	Royal Commission on Newspapers, Canada, 1981
Martin Report	Report from the House of Representatives Standing Committee on Finance and Public Administration: <i>A Pocket Full of Change - Banking and Deregulation</i>, November 1991
MATP	Mirror Australian Telegraph Publications
MMC	Monopolies and Mergers Commission (UK)
OECD	Organisation for Economic Cooperation and Development
PKIU	Printing and Kindred Industries Union
QPL	Queensland Press Limited

TPC	Trade Practices Commission
UK	United Kingdom
VDU	Visual display unit

CHAPTER 1

INTRODUCTION

Establishment of the Committee

1.1 The Committee was established on 22 August 1991 by resolution of the House of Representatives to inquire into and report on:

- (a) structural factors in the print media industry inhibiting competition between publications, including ownership, production (including paper supply) and distribution arrangements;
- (b) the print media's distribution and information gathering arrangements;
- (c) the extent to which the ownership or control of various sectors of the print media industry provides a barrier to entry by competitive alternatives;
- (d) the adequacy of current Commonwealth legislation and practices to foster competition and diversity of ownership in the print media; and

- (e) the practicability of editorial independence between proprietors and journalists.

(House of Representatives, *Votes and Proceedings*, 22 August 1991, p. 973)

1.2 There have been calls for an inquiry into media concentration each time a newspaper takeover has been proposed. These calls became more pronounced with the takeover of the Herald and Weekly Times by News Limited in February 1987 and the placement into receivership of the John Fairfax Group in December 1990. A motion to appoint a Royal Commission into the press, which was placed on the House of Representatives Notice Paper of 12 February 1991, was debated in the House of Representatives on 7 March 1991. (House of Representatives, *Debates*, 7 March 1991, pp. 1509-15)

1.3 In June 1991 the Australian Labor Party conference in Hobart passed a resolution calling for a parliamentary inquiry. The major difference between this resolution and the terms of reference of the Committee, is that the latter include the practicability of editorial independence.

1.4 In introducing the resolution to appoint the Committee the Leader of the House, the Hon. Kim Beazley MP, said that the proposal to appoint the Committee 'arises out of a substantial degree of public concern that has been expressed in recent times about the question of concentration of media ownership in the area of the print media'.

1.5 The resolution of appointment asked the Committee to report to the House by 19 December 1991. The Minister said this tight deadline was necessary because the Government wanted to receive early advice on matters about which it had to make decisions. (House of Representatives, *Debates*, 22 August 1991, p. 403) The reporting date was extended by the House on 28 November 1991 and on 26 February 1992. (House of Representatives, *Votes and Proceedings*, 28 November 1991, p. 1236 and 26 February 1992, p. 1319)

Conduct of the Inquiry

1.6 The Inquiry was advertised in the daily and metropolitan newspapers on 28 August 1991. Interested persons and organisations were invited to lodge submissions by 20 September. Submissions were accepted after 20 September and were still being accepted in March 1992. Of the 164 submissions received by the Committee, only 25 submissions or 15 per cent were lodged by 20 September 1991.¹

1.7 In addition to the press advertisements, the Chairman, on behalf of the Committee, requested or invited submissions from a large number of individuals and organisations with specific experience or expertise in the print media, and, Senators, Members of the House of Representatives, State Premiers and Chief Ministers.

¹ This percentage would increase if allowance is made for submissions which were responses to other submissions or other evidence.

1.8 Public hearings commenced on 1 October, that is 10 days after the day submissions were requested to be lodged. During this period the Committee was briefed on the Inquiry by officials from the Trade Practices Commission, Attorney-General's Department and Mr John Wallace, media consultant to the Norris inquiry (1981) into ownership and control of newspapers in Victoria.

1.9 Before the commencement of the public hearings the Committee, at the invitation of News Limited and the John Fairfax Group, inspected their operations - News Limited's *The Australian* and *The Daily Telegraph Mirror* on 18 September in Sydney and John Fairfax Group's *The Age* on 30 September in Melbourne.

1.10 The informal briefings and inspections also allowed Members to add to their knowledge of print media issues before the commencement of the public hearings on 1 October 1991.

The Evidence

1.11 Details on the conduct of the Inquiry, witnesses and evidence are at Appendices 1 to 4. Some features of the Inquiry are worth repeating. First, more than 160 submissions totalling over 3 000 pages were received.² Although some of these were one or two pages, substantial submissions were received from The Age Independence Committee, the Australian Journalists' Association, the Australian Centre for Independent Journalism, the

² All the pages of submissions authorised for publication have been numbered consecutively. The references contained in this report are to this page numbering and not to the numbers used in each submission.

Australian Press Council, Dr Allan Brown, the Communications Law Centre, the Trade Practices Commission and News Limited which presented several substantial submissions.

1.12 Second, the Committee collected evidence at 14 public hearings and three in-camera hearings. Over 1 600 pages of evidence was collected from 72 witnesses during 67 hours of public hearings.

1.13 Third, the Committee obtained its evidence from a wide cross-section of interested persons and organisations including proprietors, their managers, editors, journalists, academics and media analysts. The major bidders for the Fairfax newspapers were asked to make submissions and appear before the Committee because the Committee believed that, given the significance of John Fairfax to the future of the Australian print media industry, it had a responsibility to examine at public hearings issues falling within the Inquiry's terms of reference.

1.14 One of the features of the evidence collected was the debate through submission and counter-submission on a number of matters. For example, News Limited disputed allegations of bias in reporting made by the Australian Centre for Independent Journalism; Mr Michael Gill and News Limited presented different points of view over the company's treatment of the *Business Daily*; Mr Bruce Grundy et al and Mr Jack Lunn, Editor-in-Chief of Queensland Newspapers Pty Ltd, argued over alleged bias in *The Courier-Mail*; Dr Allan Brown challenged the comments made about his research by Professor Swan and Dr Garvey; and Mr Piers Akerman, Editor-in-Chief of the *Herald-Sun* and senior journalists at the *Herald-Sun*

rebutted inferences made by the Australian Journalists' Association (Victoria Branch) that the *Herald-Sun* had a policy of deliberately opposing and misrepresenting the Kirner Government in Victoria.

Structure of the Report

1.15 Paragraphs 1.15 to 1.21 describe the structure of the report. After this introductory chapter, which includes a section discussing the powers of the Commonwealth (Chapter 1), the next chapter (Chapter 2) on Other Inquiries and Treatment of the Print Media Overseas provides useful background. The reports of other inquiries are of obvious relevance to the Committee because at minimum it is useful to find out how these reports approached the problems they perceived. Regulation of the print media industry overseas has similar relevance.

1.16 The Print Media Industry (Chapter 3) is the next background chapter. It sets the scene for subsequent examination of the print media by discussing the similarities and differences of the print media vis-a-vis the electronic media and by describing the regulation of both print and electronic in respect of the cross-media ownership rules.

1.17 The remaining chapters are the 'analytical' chapters of the report. Chapter 4, Concentration and Competition in the Print Media, focuses on the increased concentration ownership trend and its impact on competition within the industry.

1.18 The industry is highly concentrated but this would not be a problem if the barriers to entry for new players were low; for then the market would be 'contestable'. These barriers are discussed in Chapter 5, Barriers to Entry to the Print Media Industry, and Vertical Integration is examined in Chapter 6. There was general agreement that the barriers to entry are high for aspiring publishers of metropolitan or national daily newspapers, but that enterprising publishers could break into niche markets.

1.19 Chapter 7, Improving Competition and Diversity, contains the report's most important recommendations. The reduction of competition and the consequential potential for the lessening of diversity are the central issues the Inquiry has examined.

1.20 The concern that high concentration and formidable barriers to entry could reduce significantly the presentation of diversity of views, particularly if there were interventionist proprietors, has led to calls for guarantees of editorial independence. Chapter 8 discusses the roles of proprietors, editors and journalists and the impact which ownership concentration has on content, including the reporting of news on the business interests of a proprietor. Various mechanisms proposed to the Committee for supporting editorial independence are then discussed, followed by an examination of the role of the Press Council.

1.21 The final chapter of the report, Chapter 9, discusses the cross-media ownership rules, foreign ownership and the impact of technological change on the print media industry.

Powers of the Commonwealth

1.22 There is no specific Head of Power in the Australian Constitution which gives the Commonwealth Government the power to legislate with respect to the print media. The Attorney-General's Department said that despite this the Commonwealth possesses several legislative powers which would allow it to regulate various aspects of the print media industry. According to the Department, the most significant of these are:

Section 51(i) (the overseas and interstate trade and commerce power) which allows the Commonwealth to regulate the print media to the extent that it involves overseas and interstate trade;

Section 51(xx) (the Corporations power) which allows the Commonwealth to regulate the participation of foreign, financial and trading corporations in the print media; and

Section 122 (the Territories power) which confers plenary power on the Commonwealth in relation to the Territories, and, accordingly, allows it to regulate all aspects of print media in the Territories. (Submissions p. 979)

1.23 The Communications Law Centre tendered legal advice from Mr Peter Hanks which concluded that the Commonwealth would have the constitutional power to regulate the print media. (Submissions pp. 1280-85)

1.24 On behalf of the Committee, the Chairman wrote to the Attorney-General seeking a detailed legal opinion on the powers of the Commonwealth to regulate the print media with particular reference to

powers to place limits on the number of newspapers a corporation can own, divestiture, and the power of the Commonwealth to require proprietors to abide by charters of editorial independence.

1.25 The Attorney's response to the Chairman's letter is at Appendix 5. The Attorney-General attached 'a paper prepared by officers of (his) Department which outlines both the general powers of the Commonwealth in this area and the ability of the Commonwealth to implement various proposals which were put to the Committee during its recent hearings'. The paper from the Attorney-General's Department concluded that:

... the Commonwealth possesses several legislative powers, ... which ... if fully used ... would allow the Commonwealth to regulate a substantial proportion of the print media and print media activities.

1.26 The paper based this conclusion on its interpretation of the relevant sections of the Constitution - section 51(i), Interstate and Overseas Trade and Commerce, section 51(xx), Corporations and section 122, Territories.

1.27 In respect of the specific proposals referred to in the Chairman's letter (see paragraph 1.24) the Department said that the 'restrictions which the Constitution imposes on the Commonwealth's legislative power are unlikely to fetter the Commonwealth's power to implement the proposals'. It said that 51(xx) of the Constitution would allow the Commonwealth to:

... implement the proposals in relation to trading corporations given that the proposals would involve the regulation of those corporations' trading activities.

1.28 The paper from the Attorney-General's Department stated that the 'difficulty which the Commonwealth has in enacting a comprehensive statutory regime in relation to print media centres on its lack of power with respect to the intrastate trade in print media by individuals'.

1.29 The Department's paper says that Article 19(2) of the International Covenant on Civil and Political Rights provides that the right to freedom of expression includes 'freedom to seek receive and impart information and ideas of all kinds, regardless of frontiers, either orally, or in writing, or in print, or in the form of art or through any other media'. The paper says that the Office of International Law of the Department has concluded that:

... the Commonwealth could impose some form of licensing system in relation to the print media similar to that at present used for radio or television provided the system is designed to ensure the integrity of the controllers of media and did not impair the general ability to disseminate ideas or information.

1.30 At the public hearings Mr Kerry Packer, Executive Chairman, Consolidated Press Holdings Ltd, challenged the authority of the Federal Parliament even to inquire into the print media industry. He said:

If you did not have broadcasting and television legislation, you would have no say at all because, constitutionally, there has got to be an enormous argument that you have no right to inquire into print media at all. (Transcript p. 1172)

1.31 *House of Representatives Practice* states that the 'power of the House to appoint committees is not in doubt but the source of this power, particularly in regard to investigatory committees, cannot be stated precisely'. It goes on to say that there are 'doubts as to the precise extent of the investigatory powers which the House may exercise or delegate to committees'. (Browning (ed), 1989, pp. 583-86)

1.32 There are two schools of thought on the power of the House to appoint investigatory committees. The first is one of unlimited power. This view is based on section 49 of the Constitution which deems the powers of the House and its committees to be the powers of the House of Commons (i.e. at 1901). In 1845 Lord Coleridge said that as the 'general inquisitors of the realm the Commons could inquire into anything it wanted to'. A corollary of this was the authority to compel the attendance of witnesses.

1.33 The second maintains that the 'compulsive investigatory powers which the House may delegate to its committees is limited to matters on which the Parliament may legislate'. Attorney-General Greenwood and Solicitor-General Ellicott did not accept that the House has unlimited power of inquiry. Nevertheless, 'the law officers differentiated between the virtually unlimited power of inquiry and the legal limitations of the inquiry power, which would arise only when it was sought to enforce that power, for example, by compelling persons to attend a parliamentary committee'.

1.34 Under either of these interpretations the House of Representatives clearly has the power to establish this Inquiry.

CHAPTER 2

BACKGROUND

A. OTHER INQUIRIES

Introduction

2.1 Concern over the levels of concentration of ownership and control of the press and the related effect on reducing competition and diversity of opinion have led to the establishment of various commissions and committees of inquiry both overseas and in Australia. Of particular relevance to this Inquiry are the Royal Commission inquiries conducted in the United Kingdom (UK) and Canada, and State Government inquiries conducted in Victoria. It must be noted, however, that with the exception of the 1990 Victorian study, all of the other inquiries took place many years ago and, again with the exception of the Victorian studies, in countries where the circumstances surrounding the print media industry are very different from those which apply in Australia in the 1990s.

2.2 There are certain features common to all of these inquiries which are worth noting. All were government initiatives in response to public comment about the press. All were at least in part concerned with the issue of preventing further concentration of ownership and with establishing mechanisms to protect diversity of opinion. All recognised the power of the press to influence public opinion. Almost all, in recognition of the unique

nature and power of the press, identified the need for the press to be treated differently from other industries in whatever forms of regulation and control were proposed.

2.3 Originally the emphasis of the reports was to encourage a self-regulatory approach and allow market forces to determine levels of concentration. Self-regulation, however, does not appear to have been successful. For example, the Press Council in the UK has attracted considerable criticism from the successive Royal Commission reports. Not only was there a considerable delay in the establishment of the Council but its record over nearly forty years has apparently fallen short of expectations. The role of the UK Press Council is discussed in paragraphs 2.9, 2.10, 2.17 and 2.20.

2.4 Various subsequent inquiries were of the view that further concentration in the newspaper industry could not be averted without the establishment of a special authority to monitor press transactions. Special Press Courts, Review Boards and Authorities were recommended in reports published in the UK in 1962, Canada in 1970 and in Victoria in 1981. None of the governments of the day, however, has implemented these recommendations.

2.5 Special legislation governing ownership of newspapers was also considered by a number of the reports. These varied from strengthening monopolies and mergers legislation (recommended in the 1977 UK report), to the development of a complete package of laws governing newspapers as recommended in Canada in 1981. Generally speaking, the legislative solution has not been favoured by governments. Many of the recommendations made

by the reports were not adopted. The 1977 UK recommendations were only partly adopted; the proposed Canada Newspaper Act was not introduced and the recommendations of the Norris report were not implemented.

2.6 This section includes an overview of:

· the major concerns which led to these inquiries;

· their major conclusions; and

· their recommendations pertaining to strategies to reduce concentration and promote diversity of opinion.

The outcomes of the inquiries and the current state of media ownership and control in the UK and Canada are also summarised.

United Kingdom

Royal Commission 1947-1949

2.7 In the UK three Royal Commissions into the press have been held over a period of 30 years. The first Royal Commission arose out of concern expressed by the National Union of Journalists about the trend towards monopoly in the control of the press. It was established in 1947 by the Attlee Labour Government. During the previous 25 years the number of newspapers in the country had decreased and those that remained had fallen into fewer and fewer hands. The fears expressed were that this

concentration of ownership endangered 'real freedom of the Press' because it 'produced a concentration of power in the hands of a few men which was capable of dangerous abuse and was in fact being abused to suppress opinion and to distort news'. (June 1949, Cmnd. 7700, p. 4)

2.8 Despite these fears, and as a result of their investigations, the report concluded that there was nothing approaching monopoly in the press as a whole; that there had in fact been a marked tendency away from concentration of ownership in the national press; and that the present level of concentration of ownership was not so great as to prejudice free expression of opinion or accurate presentation of news. However, the report accepted the view that further increases of concentration could be 'a matter for anxiety'. (June 1949, Cmnd. 7700, p. 176)

2.9 The Royal Commission stated: 'We do not see a solution to the problems we have indicated in major changes in the ownership and control of the industry. ... Nor do we see the solution in any form of state control of the Press.' (June 1949, Cmnd. 7700, p. 177) Consequently the principal recommendation of the report proposed that the industry establish a self-regulating General Council of the Press. The responsibilities of the Council were to safeguard the freedom of the press, to study 'developments in the Press which may tend towards greater concentration or monopoly' and to report publicly on 'various developments in the Press'. (June 1949, Cmnd. 7700, pp. 177-78)

2.10 The press was slow to give effect to any of the recommendations. However, the Press Council was finally established in 1953 during the time of the Churchill Conservative Government. Its

performance in scrutinising ownership and control of the press was apparently poor and was subsequently severely criticised in the second Royal Commission report in 1962.

Royal Commission 1961-1962

2.11 The 1949 Royal Commission report had concluded that 'any further decrease in the number of national newspapers would be a matter for anxiety'. Between 1949 and 1961 a further seventeen daily and Sunday newspapers ceased publication in London and the provinces and the ownership of those which remained became concentrated in fewer hands.

2.12 This situation gave rise to the second Royal Commission on the Press, established by the Macmillan Conservative Government in 1962. This Commission expressed greater concern than its predecessor about the dangers of concentration:

The obvious danger of concentration of ownership lies in the possibility that variety of opinion may be stifled if one proprietor comes to control a number of newspapers which formerly presented varied and independent views. ... The real danger may not lie in the active propagation of one-sided views, but in the conscious or unconscious suppression of shades of opinion which ought to have a voice. (September 1962, Cmnd. 1811, p. 19)

2.13 The 1962 report concluded that concentration had increased with fewer proprietors dominating the actual supply of news and opinion. (September 1962, Cmnd. 1811, p. 112) The principal recommendation to

deal with this perceived problem was to establish a Press Amalgamations Court to scrutinise transactions involving the purchase of newspaper titles.

2.14 This proposed statutory solution for the creation of a Press Amalgamations Court emerged out of a belief that the newspaper industry needed to be treated differently from industry in general because 'freedom and variety in the expression of opinion and presentation of news is an element which does not enter into the conduct of other competitive industries'. (September 1962, Cmnd. 1811, p. 106)

2.15 Instead of establishing a Press Amalgamations Court as recommended in the 1962 report, the Wilson Labour Government in 1965 legislated to require mergers between newspapers to be referred by the relevant Minister or Secretary of State, in certain circumstances, to the Monopolies and Mergers Commission.¹ Between 1965 and 1977, fifty cases falling within the terms of the legislation came to the notice of the Secretary of State of which seven, including the merger of *The Times* with *The Sunday Times*, were referred to the Commission; all were approved. (July 1977,

¹ The new merger provisions were subsequently incorporated into the *Fair Trading Act 1973* and expanded to include consideration of the 'public interest' and of the need for 'accurate presentation of news and free expression of opinion'.

The *Fair Trading Act 1973*, Part V, Sections 57-62 deal with newspaper mergers. Appendix 6 refers. The Act was primarily designed to substitute for the *Monopolies and Restrictive Practices (Inquiry and Control) Act 1948* and the *Monopolies and Mergers Act 1965* and to amend the Restrictive Trade Practices Acts of 1956 and 1968. The Commission established under the *Monopolies and Restrictive Practices (Inquiry and Control) Act 1948*, later renamed the Monopolies Commission, was subsequently to be known as the Monopolies and Mergers Commission, under the terms of the Fair Trading Act.

The role of the Monopolies and Mergers Commission was expanded in 1965 by an amendment to the 1948 Act.

Cmnd. 6810, pp. 4 and 131) In the remaining 43 cases, consent was given by the Secretary of State without reference to the Commission. In the majority of these cases consent was granted on the grounds that 'the newspaper concerned had an average circulation of fewer than 25 000 copies'; in two cases consent was given on the grounds that the papers were 'not economic as going concerns'. (July 1977, Cmnd. 6810, p. 131) During the time of the Thatcher Government, national newspapers were rarely referred to the Monopolies and Mergers Commission.

2.16 As will be described in paragraph 2.23 the subsequent provisions of the 1973 Fair Trading Act gave the Secretary of State the power to give consent to newspaper mergers in situations where he is satisfied that the newspaper concerned is a failing company, without having to refer them to the Commission. Appendix 6 contains extracts from the relevant sections of the Act.

2.17 The 1962 report also recommended that the press be given another opportunity to regulate itself voluntarily. The report recommended that the General Council of the Press be reconstituted in accordance with the recommendation of the 1949 report to include a lay element. This reformed Press Council was charged with being far more active in scrutinising changes in ownership and control, in keeping up to date and publishing statistical information relevant to ownership concentration in the press. It was also charged with enforcing the recommendation that newspapers bear the name of the company or individual in ultimate control of their affairs, and with acting as a tribunal to hear complaints from editors and journalists of undue influence by advertisers or their superiors to distort the truth or otherwise engage in unprofessional conduct. The Royal

Commission recommended that if the press had not set up the Council in the manner described within a specified time limit, the Government would legislate to do so. (September 1962, Cmnd. 1811, pp. 102 and 117)²

Royal Commission 1974 - 1977

2.18 As a result of various mergers, takeovers and closures, fewer national daily and Sunday newspapers existed in 1974 than existed in 1961 and the issue of concentration of ownership and the consequent 'dangers of a further restriction on the public's choice if other papers were to close' (July 1977, Cmnd. 6810, p. 2) led to the appointment of the third Royal Commission on the Press by the Wilson Labour Government.

2.19 The terms of reference for this Commission's inquiry were much wider than those of the earlier inquiries. The Commission was charged with inquiring into factors affecting the 'maintenance of the independence, diversity and editorial standards of newspapers and periodicals' as well as such matters as employment conditions and labour practices in the industry. (July 1977, Cmnd. 6810, p. i)

2.20 The view that the press should neither be subject to state control nor left entirely to the unregulated forces of the market was the basic premise behind the 58 recommendations of the report, covering a wide

² Since then, the Press Council has made some attempt to meet the requirement to publish statistical information relevant to ownership concentration although the information published in its Annual Report is generally at least three years old; some commentators have been highly critical of the Press Council's perceived inability to scrutinise changes in ownership and control.

range of issues from the training of journalists to the role of unions and libel matters. (July 1979, Cmnd. 6810, p. 11) Several of the recommendations also related to measures to strengthen the monopoly laws and changes in the composition and procedures of the Press Council.³

2.21 In formulating its recommendations to deal with monopolies and concentration, the Commission recognised that at times mergers and acquisitions are necessary for economic survival but emphasised that its policy was aimed at discouraging the growth of 'extensive monopolies'. (July 1977, Cmnd. 6810, p. 134) The report canvassed a number of possible measures to achieve this end, including strengthening monopolies and mergers legislation, government subsidies to new entrants to the newspaper market, requiring divestiture of ownership of some titles, requiring disclosure about ownership and institutionalising editorial independence. However, after canvassing these measures, not all of them were recommended. For example, subsidies were seen as not desirable, whilst divestiture was seen to be a future possible option. Disclosure about ownership and contracts for editors were recommended. (July 1977, Cmnd. 6810, pp. 134-35) The contracts were recommended for editors of large newspapers, to ensure that they could not be dismissed at short notice - twelve month's notice was recommended. The Commissioners felt that 'only with that sort of security ... (can) editors ... feel safe in asserting their rights'. (July 1977, Cmnd. 6810, p. 156)

³ Strengthening the role of the Press Council by changing its composition and procedures was also one of the significant recommendations of the 1977 report. Despite the Press Council implementing these recommendations, a recent report on the press in the UK (Calcutt, 1990) is now recommending that the Press Council be disbanded and replaced by a new body.

2.22 In relation to the recommendations to strengthen the monopolies and mergers legislation, the report recommended reversing the onus of proof so that 'consent to newspaper mergers both national and provincial should be withheld unless the Monopolies and Mergers Commission report that they are satisfied that the merger will not operate against the public interest'. (July 1977, Cmnd. 6810, p. 231) It was felt that, under the existing arrangement whereby consent was granted unless the Commission was satisfied that the merger would operate against the public interest, it was almost impossible to establish this to the Commission's satisfaction. Indeed this had never been able to be established in any of the cases referred. The shifting of the onus of proof for press mergers only would distinguish press mergers from other monopoly and merger cases, but, it was argued, 'special rules for newspaper mergers already distinguish them from other cases' and the proposed new rule would 'provide a more satisfactory basis for judgement by the Commission'. (July 1977, Cmnd. 6810, p. 135) The government did not adopt this recommendation.

2.23 Under the current provisions of the *Fair Trading Act 1973*, included at Appendix 6, the Monopolies and Mergers Commission is still required to establish whether or not the proposed merger may be expected to operate against the public interest. The Secretary of State, however, retains the power to give consent to all newspaper mergers, including certain situations which do not even require a report from the Commission. These situations include those in which the Secretary of State is satisfied that the newspaper concerned in the transfer is 'not economic as a going concern', particularly if the case is one of 'urgency', and if the newspaper concerned has 'an average circulation per day of not more than 25 000 copies'. In the

case of News International's purchase of *The Sunday Times* in 1981, for example, the case was not referred to the Commission because the Secretary of State said it was unprofitable. (Allen, 1988, p. 73)

2.24 Despite three Royal Commissions into the press, the British national newspaper industry in the late 1980s and early 1990s is still relatively concentrated having been dominated by two major proprietors, Mr Rupert Murdoch and the late Mr Robert Maxwell, who controlled 36 per cent and 27 per cent of the national market respectively. (Allen, 1988, p. 71) Commentators have noted that the drift to increasing concentration appears to be continuing. (Allen, 1988, p. 72) According to recent figures, Mr Murdoch's News International has a total daily circulation of 10 573 222 to the Maxwell family's Mirror Group circulation of 8 100 545. The circulation figures of the next four largest groups are as follows: United Newspapers (Lord Stevens) 4 066 333; Associated Newspapers (Viscount Rothermere) 3 660 220; Daily Telegraph (Mr Conrad Black) 1 651 018 and Lonrho International (Mr Rowland) with 579 045. (Figures provided by the UK High Commission, February 1992)

Canada

The Davey Report 1970

2.25 In Canada, the first major inquiry into the media also arose out of concern over concentration of ownership.⁴ A Senate Committee on the Mass Media, chaired by Senator Keith Davey, reported to the Canadian

⁴ In 1970 the three big chains in the country controlled a total of 44.7 per cent of the circulation of the nation's 116 daily newspapers. (Submissions p. 751)

Parliament in 1970 that the trend by which control of the media was passing into fewer and fewer hands was going to reach the point where 'it collides with the public interest'. Davey saw that the power of newspapers to influence public opinion made publishing a matter of national concern:

What happens to the catsup or roofing tile or widget industry affects us as consumers; what happens to the publishing business affects us as citizens. (Davey 1970 in Submissions p. 751)

2.26 To prevent further concentration of the newspaper industry into the hands of a few, the Davey report called for the establishment of a mechanism to scrutinise all transactions that had the potential to increase concentration of ownership in the mass media. The Press Ownership Review Board was to have one basic guideline: '*... all transactions that increase concentration of ownership in the mass media are undesirable and contrary to the public interest - unless shown to be otherwise*'. (emphasis in original) (Kent Report, 1981, p. 17)

2.27 This recommendation resembled that of the 1962 UK Royal Commission report which had proposed the establishment of a Press Amalgamations Court. Like the recommendations of that report, the Davey recommendations relating to strategies to reduce concentration were largely ignored by the Trudeau Liberal Government and the proposed Press Ownership Review Board was never established. (Kent Report, 1981, pp. 17-18 and Benesh, 1986)

Royal Commission on Newspapers 1981

2.28 In 1980, the Trudeau Government, concerned about the increased concentration of ownership and control of daily newspapers in Canada, appointed a Royal Commission (the Kent Commission) to inquire into the issue. This Commission was 'born out of the shock and trauma' which accompanied the closure of two newspapers in Ottawa and Winnipeg, thereby giving each of the two biggest newspaper chains a monopoly in one of those two cities. In addition to the inquiry into the effect of media concentration on the public interest, the two chains were charged, under the Combines Investigation Act, of conspiring to reduce competition. They were subsequently acquitted.

2.29 The Commission was of the view that:

Freedom of the press is not a property right of owners. It is a right of the people. It is part of their right to free expression, inseparable from their right to inform themselves. The Commission believes that the key problem posed by its terms of reference is the limitation of those rights by undue concentration of ownership and control of the Canadian daily newspaper industry. ... Concentration engulfs Canadian daily newspaper publishing. (Kent Report, 1981, p. 1)

2.30 The Kent Commission recommended that a Canada Newspaper Act be introduced containing a package of measures aimed at preventing further concentration of ownership of daily papers, forcing divestiture in certain situations where concentration had already proceeded to an unacceptable level, and at improving the quality of news reporting. It proposed the introduction of specific legislation to set upper limits on the

number of daily papers and the circulation level which could be controlled by a single proprietor, and recommended the establishment of a Press Rights Council to monitor the effectiveness of the legislation. Certain tax and financial incentives were also proposed. For example, tax incentives were proposed for purchasers of divested assets, whilst tax credits and tax surcharges were proposed to reward or penalise newspaper proprietors depending on their ratio of editorial expenses to advertising revenues.⁵ The latter proposal would have provided a financial incentive for publishers to have increased the editorial content of their papers, particularly in terms of increasing the local content of their papers, that is, 'reporting through Canadian eyes and reflecting Canadian interests'. (Kent Report, 1981, pp. 244-45; pp. 252-54)

2.31 None of the recommendations was implemented by the Trudeau Government. According to local commentators, the industry was able to mount an effective campaign in the name of freedom of the press. The industry was successful in having the bulk of the recommendations abandoned and Mr James Fleming, the Minister who attempted to introduce legislation containing some 'watered-down' recommendations of the Kent Commission was dropped from Cabinet. (Benesh, 1986)

⁵ Tax credits and surtax - The proposed tax measure 'is that the tax liability of a newspaper-owning company would be reduced by 25 per cent of any amount by which its paper's editorial expenses have exceeded the sum resulting from multiplying the paper's revenues by the ratio of editorial expenses to revenues which was the average for all daily newspapers during the previous year. Symmetrically, if a paper's editorial expense falls short of the average industry level, in relation to revenues, the proprietor company would be subject to a surtax equal to 25 per cent of the deficiency. If the company owns more than one newspaper, the calculations would of course be made for each paper and the sum would become the net tax credit or surtax of the company'. (Kent Report, 1981, p. 253)

2.32 However, there were two indirect outcomes of the Royal Commission - namely, revision of Canada's competition law and the introduction of cross-media ownership provisions in Canada's broadcasting legislation.

2.33 Despite these two inquiries, ownership and control of the print media in Canada today is still characterised by large chain ownership. The Kent Commission had noted that: 'Newspaper competition, of the kind that used to be, is virtually dead in Canada'. (Kent Report, 1981, p. 215) There is no evidence to suggest that the situation has improved in the decade since the Commission reported. At the time of the Kent Commission, three chains controlled two-thirds of English language circulation. By 1986 three-quarters of Canadian newspapers belonged to two large chains and a couple of small chains. Today there are still two main newspaper chains - Southam and Thomson - while another chain - Maclean Hunter - controls a large slice of the magazine market. (Mackey, 1991)

Australia

The Norris Inquiry 1981

2.34 The only major inquiry into the print media in Australia prior to this Committee's current national Inquiry was the Norris inquiry in Victoria. The Trade Practices Commission, however, has conducted some investigations into a number of related areas, such as newsprint, the newsagency distribution system and the disposal by News Limited of Brisbane's *The Sun* and *The Sunday Sun* and Adelaide's *The News*.

2.35 Prior to the Trade Practices Commission's investigations, a number of discussion or information papers had also been prepared at the national level. These papers canvassed views on such issues as the formation of a Press Council and the establishment of an Australian Newspaper Commission.⁶

2.36 The Australian Royal Commission on Television made a passing reference to the need to prevent undesirable concentration of ownership in its 1954 report, but this did not specifically refer to ownership of the print media. (Commonwealth of Australia, 1954, pp. 73 and 103) The Australian Broadcasting Control Board, in its 1958 report to the Postmaster-General on the applications for commercial television licences for the Brisbane and Adelaide areas did express its concern about whether the public interest would be best served if 'powerful metropolitan newspapers' were permitted to own commercial television stations. (Australian Broadcasting Control Board, 1959, p. 29) The implications of this concern were apparently ignored by the Menzies Liberal-Country Party Coalition Government of the day.⁷

⁶ For example, the discussion paper prepared for the then Minister of the Media, Dr Moss Cass, in 1975, on a proposed Press Council for Australia, and the Department of the Media Information Paper, 'A consideration of the implications of Section 13 of the Australian Labor Party's Media Platform', Commonwealth of Australia, 1975.

⁷ In a 'Supplementary Report and Recommendations to the Postmaster-General' in April 1959, the Australian Broadcasting Control Board expressed its concern that such considerations as 'the question of newspaper control of television stations ... now seem to be inapplicable in view of the Government's decision (that two licences for commercial television stations should be issued for Brisbane and Adelaide, instead of one as recommended by the Board in their earlier report)'.

2.37 The Norris inquiry into ownership and control of newspapers was the Hamer Liberal Government's response to concern about the levels of concentration of media ownership in the State of Victoria, namely that two major publishers of newspapers in Victoria, the Herald and Weekly Times Ltd (HWT) and David Syme & Co. Limited, controlled over 80 per cent of the total weekly circulation of newspapers throughout Victoria. (Norris, 1981, p. 14) The inquiry followed an unsuccessful takeover attempt by News Limited of the Herald and Weekly Times Ltd in November 1979. In response to the proposed takeover, John Fairfax Ltd pledged support to the Herald and Weekly Times group to help it maintain its independence and purchased a total of 14.9 per cent of HWT shares. The then Managing Director of David Syme & Co. Limited, Mr Ranald Macdonald, was concerned that the Fairfax purchase of HWT gave Fairfax a bigger financial stake in HWT than its own subsidiary, Syme, and that this would jeopardise the independence of *The Age*. The level of holdings by Fairfax in the HWT was not seen by the Trade Practices Commission at the time as a breach of section 50 of the Act. (Norris, 1981, pp. 53-57)

2.38 In his report to the Premier of Victoria, Mr Lindsay Thompson, in September 1981, the Hon. J G Norris (later Sir John), concluded that there was a very high degree of concentration of ownership and control of newspapers in Victoria, and that concentration had increased and was continuing to increase. Like the three UK Royal Commissions, he identified the two major dangers associated with this as being, first, 'loss of diversity in the expression of opinion and, second, the power of a very few men to influence the outlook and opinions of large numbers of people, and consequently the decisions made in society'. (Norris, 1981, p. 217) As Mr Norris stated:

It is important to distinguish between two aspects of the power which arises from the concentration of ownership and control. The first is the aspect which is common to all or most commercial enterprises - the power of achieving a high degree of control in the market with the consequence of increased profit to the newspaper proprietary. The second is the power to influence the very functioning of our whole society by control over the nature and extent of the information presented to it and by the analysis and interpretation of that information. It is this latter aspect of power, affecting social and political affairs, that distinguishes the media industry from other industries ... It is to the regulation of undesirable elements of the former aspect of power to which concentration of ownership or control of the press gives rise that such legislation as the Trade Practices Act 1974 is directed. It is the latter with which this Inquiry is concerned. (Norris, 1981, pp. 85-86)

2.39 The report concluded that neither the Australian Press Council, nor market forces, could prevent future harm from further concentration of ownership. Whilst no evidence was actually found of a deleterious effect of such ownership in Victoria, the potential for harm was acknowledged:

While the Inquiry has seen so far no evidence of a deleterious effect of such ownership in Victoria ... the potential for harm, especially (loss of diversity in the expression of opinion and the power of a very few men to influence the outlook and opinions of large numbers of people) is real. (Norris, 1981, pp. 217-18)

2.40 In order to counter this trend the Norris report, like the 1962 UK and 1970 Canadian reports, recommended the establishment by legislation of a Press Amalgamations Authority to scrutinise acquisitions by newspaper publishers already owning more than 10 per cent of shareholdings in other newspapers in the State of Victoria; the Authority's

consent to such a transaction would depend on whether the acquirer could prove that the acquisition was not contrary to the public interest. (Norris, 1981, pp. 193 and 219)

2.41 None of the recommendations of the Norris report was implemented by the out-going Liberal Government of the day; nor were they addressed by the in-coming Cain Labor Government. Yet, in the words of the current Victorian Labor Government, 'an opportunity to prevent further concentration of the Victorian press was lost'. (Submissions p. 1404)

The Working Party into Print Media Ownership, 1990

2.42 Almost a decade after the Norris inquiry, the Victorian Labor Government established a working party to inquire into ownership and control of the print media. The Hon. Race Mathews chaired the Committee which presented its report to the Attorney-General of Victoria in December 1990.

2.43 The Mathews Committee concluded that levels of concentration were worse than those which existed in 1981 and suggested that further concentration would be contrary to the public interest. (Mathews 1990 in Submissions p. 1417)

2.44 One of the principal recommendations of the report was that the Victorian Government should introduce legislation immediately to prevent further print media ownership concentration. The Victorian Government did not implement this recommendation, although Mr Mathews subsequently announced his intention to introduce a Private Member's Bill on Print

Media Ownership into the Victorian Parliament in November 1991. The major thrust of this proposed Bill is to ensure that no transaction takes place which would further increase the concentration of the ownership or control of newspapers in Victoria, unless the transaction is shown to be in the interests of the public. The Committee understands that the proposed Bill is likely to be introduced into the Victorian Parliament in March 1992.

2.45 Both the Norris and Mathews reports support increasing government regulation of the print media, an approach which has been supported in principle by the current Victorian Labor Government. The form of this legislation was not originally specified although the alternatives proposed ranged from the establishment of an independent body such as a Press Diversity Tribunal, a body analogous to the Australian Broadcasting Tribunal or by the extension of further powers to the Trade Practices Commission. Whatever the form of regulation, the Victorian Government emphasised, the guiding principle should be that 'further concentration of ownership or control of newspapers is contrary to the public interest'. (Submissions p. 1406)

2.46 Mr Mathews' proposed Bill recommends the establishment of a Press Diversity Tribunal to examine proposed press transactions. It remains to be seen whether the proposed Bill is passed into law by the Victorian Parliament, and whether this in turn will affect ownership of the print media in that State.

B. TREATMENT OF PRINT MEDIA OVERSEAS⁸

Introduction

2.47 Just as useful lessons can be learnt from the experiences of other countries which have conducted inquiries into print media concentration, so too can an examination of the ways in which the print media industry is currently regulated in other countries provide useful comparisons for consideration, since such matters as levels of concentration, cross-ownership and foreign ownership are outcomes of government policy, either explicitly or implicitly. Unfortunately, there is very little up to date literature which specifically deals with current legislation applicable to the print media overseas. Based on the information available, a summary of the various ways in which the print media are treated in a number other countries follows. To facilitate this summary, a chart showing the major features of regulation of the print media in UK, Canada, USA and Sweden is attached - see Table 2.1 at page 40. To facilitate comparison, a similar chart has also been included for Australia - see Table 2.2 at page 43. Of necessity, the information has been simplified in both this summary and the charts to provide a concise comparative overview.

⁸ Information in this section was derived largely from papers prepared for the Committee by the Parliamentary Research Service of the Parliamentary Library: K Cole and M Mason, M Harrison-Smith, P Mackey (1991) - see reference list.

Information was also provided by the British and Canadian High Commissions, the French and Swedish Embassies and the United States Information Service.

Newspaper Specific Legislation

2.48 Generally speaking, the print media industry is very lightly regulated compared to the electronic media. This may reflect a perception of the relative powers of the media to influence ideas and opinions and a desire to preserve a fundamental principle of freedom of the press, which, in some countries like the USA, is enshrined in their constitutions, thereby making it more difficult for governments to regulate the print media. It may also reflect a perception that because the airwaves are a scarce resource, the electronic media require more regulation.

2.49 Many countries have little or no regulation of the print media other than the general provisions of competition laws such as fair trading practices and anti-monopoly or anti-trust laws governing all industries. This is currently the case in the UK, Canada, the USA and Australia. Of the countries included in this media survey very few actually have legislation which has been specifically developed for application to the print media. The UK, however, has a special section dealing with newspapers in fair trading legislation whilst in the USA special legislation for newspapers is directed at creating exemptions to general anti-trust laws.⁹ Sweden is an exception to this, being one of the few countries to have a separate Act governing the press. In order to counteract further concentration of ownership and to facilitate the establishment of additional newspapers in Sweden to provide diversity of views, the Government has taken the step of providing

⁹ The Newspaper Preservation Act provides for joint newspaper operating agreements to be exempt from the general anti-trust laws. Applications for joint operating agreements are required to be approved by the Attorney General.

permanent multi-million krona subsidies to enable the press to 'discharge ... its functions within the Swedish democratic system'. The subsidies are financed by a tax on all advertising.

2.50 It is interesting to note that the French government also provides aid to the print media. Although there is no specific aid program for the print media defined in the budget, government aid is nevertheless considerable, particularly to newspapers with low advertising.

2.51 In addition to concessions such as special rates for rail, post and telephone charges (for press correspondents), French newspapers can also benefit from tax concessions, such as value added tax exemptions and investment concessions, which were worth as much as 5 567 million French francs or \$1.4 billion (Australian) in 1989. Apart from the tax and investment concessions, the other forms of aid amounted to 218 million French francs or \$54 million (Australian) in the same year. The government also pays various Departments' subscriptions to the French press agency (AFP) which amounts to a further 412 million French francs or \$103 million (Australian). (Figures provided by the French Embassy, February 1992)

Mergers

2.52 Perhaps the most significant way in which the issue of concentration is treated in different countries can be assessed by an examination of the methods by which mergers are approached. Like Australia, the UK and Canada have special commissions with the responsibility to enforce their respective merger laws, although in the USA

this is usually handled on a case-by-case basis by referral to the courts, often at the instigation of the Anti-Trust Division of the Department of Justice.

2.53 The effect on competition appears to be at the heart of the merger policies of these countries although there is no similarity in the merger tests applied. For example, the tests vary from 'dominance' in Australia, to 'substantial lessening of competition' in Canada. In the UK the approach is whether the merger in question will operate against the public interest, taking into account such factors as the need for accurate presentation of news and free expression of opinion; in the USA the test is whether the proposed merger will lessen competition or create a monopoly. A mandatory requirement for pre-notification only applies in Canada and the USA in the event that the proposed merger exceeds certain thresholds. Further details of the merger tests and administrative procedures in other countries are contained in Table 2.3 at page 45. Matters relating to the merger authorisation and litigation procedures which operate in Australia are discussed further in Chapter 7.

2.54 It is also interesting to note that in the European Community a new merger regime was introduced in 1990. Under this regime, mergers which create or strengthen a dominant position as a result of which competition would be significantly impeded in a substantial market will be subject to examination by the European Commission and may be prohibited. A pre-notification system with a high threshold was also introduced. (Trade Practices Commission, 1991, p. 5) This is the first time the Community has had a specific mergers regime. (Department of Trade and Industry (UK), 1991, p. 1)

Limits on Ownership

2.55 Various countries have adopted measures to limit the level of media interests which may be held by an individual. The measures are directed particularly to electronic media interests but may indirectly affect print media by, for example, limiting or prohibiting cross-media ownership. In the UK, the newspaper merger provisions of the Fair Trading Act are triggered by a threshold based on the combined circulation of the acquiring and target companies.

2.56 No restrictions apply to foreign investment in print media in the UK and USA. The Committee understands that, with the exception of Australia, Canada and France, there are no limits on foreign ownership in the print media in OECD countries. In Canada foreign investment is permitted only if it takes the form of a joint venture controlled by Canadian interests. In Australia all proposals involving foreign investment are subject to a case-by-case examination.

2.57 In terms of cross-media rules, Australia's cross-media limits closely resemble those which apply in UK, with both countries specifying a similar percentage of ownership in the principal medium which is permitted if a newspaper proprietor intends to purchase a television licence or a television proprietor intends to purchase a newspaper. The USA has a quite different rule which prohibits ownership of both media - print and electronic - in the same market area. In Canada the Canadian Radio-television and Telecommunications Commission, favouring a case-by-case approach and acting on a policy directive, tries to discourage local cross-ownership of

newspaper and broadcasting stations. (Bureau of Transport and Communications Economics, 1991, p. 162)

Self-Regulation

2.58 Most western countries have a self-regulating Press Council which operates along similar lines to that in Australia. The earliest was established in Sweden in 1916. Although national Press Councils appear to be the norm, Canada is an exception to this having six provincial Press Councils to deal with complaints about the press. The main functions of Press Councils are to act as a tribunal to handle complaints from the public against the press, to maintain and comment on attempts to restrict freedom of the press, and to maintain the ethical standards of the press.

2.59 In the USA there is no national Press Council. However, in a recent publication of the American Society of Professional Journalists there have been increasing calls for a revival of some sort of voluntary National News Council. In an article entitled 'Who's Watching the Watchdog', Lawrence Kaggwa, former Chairman of Howard University's Department of Journalism, suggests that:

If journalists would voluntarily cede some of their First Amendment freedoms to an impartial agent that could give public grievances against the press an impartial hearing and resolution, the concept of freedom so pervasive in American life would be preserved. (Kaggwa, 1991, p. 21)

2.60 In the meantime, non-partisan media watchdog organisations, such as the Washington based Accuracy in the Media group, continue to receive and process complaints from the public about factual errors made by the news media.

2.61 The office of Press Ombudsman is a newer development - again Sweden pioneered this concept in 1969. Other countries do not appear to have adopted this approach to handling complaints, although individual newspapers in the UK, Canada and the USA have an Ombudsman. A local experiment was conducted at *The Sydney Morning Herald* paper recently. This experiment, called 'Who is Right', does not seem to have been successful and has lapsed.

Conclusion

2.62 The countries referred to in this brief survey of the treatment of the print media overseas have all adopted different approaches to regulation. As previously mentioned in the section on 'Other Inquiries', at least for the UK and Canada, the different approaches have not been successful in preventing relatively high levels of concentration of ownership. In the case of the USA, the levels of concentration are not quite so high, although chain ownership has become a feature of the industry, as it has in Canada. In Sweden, although the number of newspapers has declined since the second world war, state support in the form of subsidies has served to preserve some newspapers which would otherwise have closed.

Table 2.1: Regulation of the Print Media Overseas

	UK	CANADA	USA	SWEDEN
Relevant Legislation	<p>Fair Trading Act 1973 (FTA)</p> <p>Broadcasting Act 1990 (BA)</p>	<p>Broadcasting Act 1978 (BA)</p> <p>Competition Act 1985 (CA)</p> <p>Combines Investigation Act 1985 (CIA)</p>	<p>Communications Act 1934 (CA)</p> <p>Clayton Act (as amended by Celler-Kefauver Act) (CA/CK)</p> <p>Federal Trade Commission Act (FTCA)</p> <p>Newspaper Preservation Act (NPA)</p>	<p>Freedom of the Press Act 1949</p>
Is There Newspaper Specific Legislation?	<p>FTA - Part V, ss.57-62 deal with newspaper mergers</p> <p>BA - no; cross-media rules relevant</p>	<p>BA - no; cross-media rules relevant</p> <p>CA - no; deals with mergers</p> <p>CIA - no; deals with combines, monopolies, trusts and mergers</p>	<p>no - general anti-trust laws apply</p> <p>CA - no</p> <p>CA/CK - no; restricts development of monopolies</p> <p>FTCA - no; restricts unfair competition</p> <p>NPA - yes; creates exemption to anti-trust laws for joint operating agreements</p>	<p>yes</p>

	UK	CANADA	USA	SWEDEN
Regulatory Body - Mergers	Monopolies and Mergers Commission	Canadian Competition Tribunal Other: Restrictive Trade Practices Commission Canadian Radio-television Telecommunications Commission	Courts Other: Federal Trade Commission Federal Communication Commission	*
Mandatory Requirement for Pre-Notification	no - voluntary	yes - for fairly high threshold mergers	yes - for fairly low threshold mergers	*
Merger Test	against the public interest need for accurate presentation of news and free expression of opinion	substantial lessening of competition	create monopoly lessen competition	*
Limits - Circulation/ Titles/ Geographical Area	500,000/day (incl. existing and intended circulation before Secretary of State can refer for investigation)	no limit on market share	major metropolitan newspapers prevented from owning suburban dailies in the same city region	*
Limits - Foreign Ownership	no restriction	joint venture controlled by Canadian interests	no restriction	*

	UK	CANADA	USA	SWEDEN
Limits - Cross Media	TV to Newspapers 20% Newspapers to TV 5%	local cross-ownership of newspaper and broadcasting is considered on a case-by-case basis but is generally discouraged	cross ownership of newspapers and broadcast or cable outlets by one ownership in the same media market is prohibited	*
Subsidies	no	no	no	yes since 1969
Press Council	yes since 1953	provincial councils	no	yes since 1916
Press Ombudsman	some individual papers	some individual papers	some individual papers	yes since 1969
Citizenship of Proprietor	no restriction	see foreign investment rules	no restriction	*

Note: * indicates information is not known.

Table 2.2: Regulation of the Print Media in Australia

REGULATION	AUSTRALIA
Relevant Legislation	Trade Practices Act 1974 (TPA) Foreign Acquisitions and Takeovers Act 1975 (FATA) Broadcasting Act 1942 (BA) Corporations Act 1989 (CA)
Is There Newspaper Specific Legislation?	TPA - no FATA - no BA - no; cross-media rules relevant CA - no; takeover provisions indirectly relate
Regulatory Body - Mergers	Trade Practices Commission Other: FIRB ABT ASC
Mandatory Requirement for Pre-Notification	no
Merger Test	dominance or enhanced dominance
Limits - Circulation/Titles/Geographical Area	no
Limits - Foreign Ownership	foreign investment in mass circulation newspapers is restricted; all proposals subject to a case by case examination

REGULATION	AUSTRALIA
Limits - Cross-Media	TV to Newspapers 15% Newspapers to TV 5% Radio to Newspapers 15% Newspapers to Radio 5%
Subsidies	no
Press Council	yes
Press Ombudsman	no
Citizenship of Proprietor	no specific restrictions on foreigners owning magazines and periodicals

Table 2.3: Merger Tests and Administrative Procedures in Other Countries

In those countries which have anticompetitive merger laws, only a very few cases are actually decided in the courts (or, in the case of the United Kingdom, referred to the Monopolies and Mergers Commission). On the other hand, a very large number of horizontal and other mergers are considered by the relevant competition authority to determine whether they raise competition issues. It is clear that the guidelines and administrative procedures followed by these competition agencies are of great importance to the cost-effectiveness of merger policy. These agencies also operate against the background of legislation which will often specify:

- a test of anticompetitive detriment (e.g. substantial lessening of competition);
- specific factors that shall be taken into account in assessing a proposed merger;
- defences or exceptions e.g. efficiency or national interest;
- what pre-notification of the proposed merger is required;
- the penalties and other remedies that apply to breaches of the merger laws.

A brief outline of the rules that apply in a number of overseas countries is provided below.

Country	Rule
The United States ⁽¹⁾	A 'substantial lessening of competition' test and an extensive system of pre-notification with a relatively low threshold. ⁽²⁾ There is no authorisation process although the courts over time have developed an 'efficiency' defence which allows mergers to proceed on the basis of proven efficiencies. The defence is seldom successfully invoked. In the revised merger guidelines issued by the Department of Justice in 1984, clear and convincing evidence that a merger will achieve efficiencies which in turn must be passed on to consumers is taken into account in deciding whether the Department will challenge a merger (Hay 1989).

Country	Rule
Canada ⁽³⁾	A substantial lessening of competition test with pre-notification at a high threshold. ⁽⁴⁾ No authorisation as such but mergers can be allowed to proceed on the basis of an 'efficiency' exception contained in the legislation but only if that efficiency can be gained through no other means than the merger. The mechanism by which mergers are adjudicated is not in the courts as such but in a Competition Tribunal that has a similar composition to the Australian Trade Practices Tribunal. However, most are settled at the administrative level with agreed divestiture arrangements but with no legal backing for those arrangements.
New Zealand ⁽⁵⁾	A test of dominance along the lines of the Australian test. Authorisation on public benefit grounds. Pre-notification of mergers is now voluntary although prior to January 1991 pre-clearance of mergers was required. ⁽⁶⁾
United Kingdom ⁽⁷⁾	The basic test has been one of detrimental effect to competition with a possible reference to the Monopolies and Mergers Commission for a public interest/national interest assessment. The MMC makes recommendations to government. There is a voluntary system of pre-notification. ⁽⁸⁾

- Notes:
1. Clayton Act, Section 7.
 2. Hart-Scott-Rodina Act. \$100 million assets or sales of acquirer and transaction value of \$10 million assets or sales of target.
 3. Competition Act 1986, Section 64.
 4. \$400 million aggregate assets or sales in Canada and transaction value of \$35 million.
 5. Commerce Act 1986, Sections 66-69.
 6. Commerce Amendment Act 1990.
 7. Fair Trading Act 1973, Section 64.
 8. See Mergers Policy, Department of Trade and Industry, June 1988.

Source: Adapted from Trade Practices Commission, Submission to the Senate Standing Committee on Legal and Constitutional Affairs inquiry into Mergers, Market Dominance and Unconscionable Conduct, August 1991.

CHAPTER 3

THE PRINT MEDIA INDUSTRY

Introduction

3.1 The size, structure and operations of the print media are related to the nature of their product and to the way they compete with suppliers of similar or substitute products. In particular, the print media share some of their characteristics with other media and compete with them for both audience (readership) and advertising. The extent of competition is determined by the degree of interchangeability between the products produced by the various media. Other factors which impact on the structure and operational performance of the industry include ownership regulations and technology.

3.2 To set the context for subsequent examination of the structure of the print media, this chapter provides an overview of the market and the environment in which print media compete with other mass media for both audience (readership) and advertising revenue. With regard to the market, the focus will be on the nature of the products produced by print media and the degree to which those products are substitutable with those produced by other media.

3.3 The chapter begins with a brief history of the development of mass media industries in Australia. This is followed by an examination of the nature and level of competition between the media industries. The chapter also provides an overview of the cross-media ownership rules.

Historical Developments

3.4 Australia's first newspaper, the *Sydney Gazette* was published in 1803. In October 1840, *The Sydney Morning Herald* became the first regular daily. By 1848 at least eleven dailies were published in Australia. By 1886 the number of dailies had grown to 48. The press was not restricted to the major centres. By 1900 New South Wales alone had some 200 country newspapers with some towns boasting two or more daily papers. The number of capital city dailies reached a peak of 26 in 1923 but has declined slowly ever since. Ownership was also diverse and common ownership of titles was not widespread. For example, the 26 metropolitan dailies published in 1923 were owned by 21 proprietors. The decline in titles was paralleled by a more rapid decline in the number of owners. By 1960 the number of capital city dailies had declined to 14 and the number of owners to 7. (Mayer, 1964, pp. 10ff)

3.5 The peak in the number of capital city daily newspapers coincided with the establishment of the first regular radio services in Sydney. Although radio services grew slowly at first, by the early 1930s licences for new stations were keenly sought. Regulations limiting multiple ownership of radio stations were introduced in 1935. Newspapers quickly recognised radio's potential as an influential, competitive medium and sought to protect their interests by acquiring radio licences. By 1942, in addition to the ABC

stations, 99 commercial stations were in operation and 44 per cent of them were directly or indirectly controlled by newspaper interests. The report of the Joint Parliamentary Committee on Wireless Broadcasting (1942) expressed concern about this level of concentration and was of the opinion that other interests should be preferred when new licences were issued. (BTCE, 1991, pp. 13-14)

3.6 The arrival of television in 1956 brought another powerful competitor to the established mass media. Again newspaper interests were keen to participate in the new medium and acquired many of the capital city licences.

3.7 Ownership restrictions, however, meant that no group or individual could own more than two television stations. Ownership of the electronic media by newspaper interests in the same geographic market is currently prohibited by the cross-media provisions of the Broadcasting Act. The restrictions on ownership of television or radio stations by newspaper interests were introduced in 1987 and 1988 respectively.

3.8 Newspaper circulation in general has been declining steadily since the late 1940s. Keith Windschuttle's book, *The Media*, quotes figures showing the declining sales of newspapers on a per capita and household basis:

In 1933 there were about 30 papers sold for every 100 people aged fifteen or more. This rose to 52 per 100 in the late 1940s early 1950s. It had dropped to 46 by 1961 and declined steadily to less than 42 in 1976. On calculations based on sales per household, the decline has been even more dramatic. In 1933

there was one paper per day per Australian household. This rose to 1.5 per household in 1947 before beginning a long decline after 1954. By 1976, sales per household were just less than one, that is, below the 1933 level. (Windschuttle, 1985, p. 37)

3.9 News Limited, in its submission, has provided figures showing that the steady decline of metropolitan newspaper circulation per unit of population has continued right up to the present time. It claims that such a decline 'is indicative of the alternative sources of information and, more particularly, the highly competitive nature of television as a news and advertising source with newspapers'. (Submissions p. 1559)

3.10 Windschuttle argues that while radio and television provide the 'obvious first choice' to explain the decline, such an explanation is difficult to sustain. He bases his arguments on a work by Murray Goot which apparently showed that 'in the 1950s and 1970s, the respective introductions of black-and-white television and colour television (had) no direct correlations with the major falls in press circulations'. The major link apparently was with increases in cover prices. Nonetheless, Windschuttle regards television as a contributing factor and acknowledges that 'the connection between the rise of television news and current affairs aimed at a mass audience, and the decline of the press aimed at the same audience, is difficult to deny'. (Windschuttle, 1985, pp. 37-38) He also regarded the changing nature of commuter travel, with the private motor car increasingly replacing public transport, as a contributing factor.

3.11 The print media industry, particularly metropolitan daily newspapers, has undergone substantial structural change in recent years. Ownership has become increasingly concentrated and currently three publishing groups (two in newspapers and one in magazines) dominate the industry. A listing of the major events leading to the current industry structure is provided at Appendix 7.

Ethnic Press

3.12 The ethnic press in Australia has a history dating back to January 1848 when the first issue of *Die deutsche Post für die australischen Colonien* was published in Adelaide. Today, an extensive range of ethnic newspapers, magazines, newsletters and other publications is published regularly in Australia in more than 30 languages. Information provided by the Department of Immigration and Ethnic Affairs indicates that there are at least 100 such publications which are produced once a month or more frequently. Many of them are published two or more times per week. The total number of readers is estimated to exceed half a million. It is clear that the ethnic press provides a valuable source of news and information.

Table 3.1: Relative Size Print Media

INDUSTRY	EMPLOYMENT (^{'000})	TURNOVER (\$ million)
Printing and publishing (ASIC 2641 and 2642) (1988-89) ¹	38.3	4 114.6
Broadcasting (1989-90) - total ² - commercial	17.9 11.6	2 789.0 2 204.0
Cinemas (1986-87)	4.5	1 194.1

- Notes:
1. AJA estimates that 30 000 persons were employed in magazines or newspapers in 1988. (Submissions p. 771)
 2. includes ABC, SBS and public radio funding.

Sources: Australian Bureau of Statistics, Australian Broadcasting Tribunal, Bureau of Transport and Communications Economics (estimates).

ASIC 2641: Establishments mainly engaged in publishing (but not printing) newspapers, magazines, books, sheet music, maps or other printed articles (excludes commercial or job printing).

ASIC 2642: Establishments mainly engaged in both printing and publishing newspapers, magazines, books, sheet music, maps or other printed articles (excludes commercial or job printing).

(ASIC = Australian Statistical Industry Classification)

Size of Print Media Relative to Other Media

3.13 The print media industry is served poorly by official statistics. Few official statistics are available which would allow comparisons of the size and performance of the print media relative to other industries. The limited available data suggest that the print media as a group are significantly larger than any other medium in terms of employment. In revenue terms, the print media attract significantly more revenue than commercial broadcasting. As shown in Table 3.1 at page 52, in 1988-89 the printing and publishing industry employed 38 300 people and had a turnover of \$4 114.6 million.¹ In terms of both employment and turnover, therefore, this industry is significantly larger than commercial broadcasting with which it competes for a substantial part of its revenue.

3.14 The paucity of adequate statistics is a limitation for policy analysis of the print media industry. Even basic information is lacking.

3.15 The Committee recommends regular collection and publication of information on the characteristics and performance of the Australian print media industry by the Australian Bureau of Statistics.

¹ The data refer to establishments mainly engaged in printing and publishing of newspapers, magazines, books, sheet music, maps or other printed articles. They exclude commercial or job printing.

3.16 The print media industry, like other industries in private ownership, seeks to make a profit from the provision of a service. Its output is composed of two joint products, information consumed by readers and advertising space consumed by advertisers. Producers obtain their income both from copy sales and from the sale of advertising material carried by their publications. Independent Newspapers PLC said in their submission:

A newspaper must never forget that, as a business, its purpose is to deliver an audience to advertisers in the most effective way possible, subject always to the dictates of honest journalism and a respect for the dignity of the individual. (emphasis in original) (Submissions p. 252)

The relative importance of the two components of revenue varies with the type of publication.

3.17 According to Professor Robert Officer, consultant for News Limited, 'the typical major daily newspaper's total revenues comprise around 70 per cent advertising, the balance of the revenue comes from circulation'. (Submissions p. 1558)

3.18 For magazines, advertising is relatively less important. The proportion of revenue sourced from advertising varies significantly depending on the type of magazine. Generally, large circulation weeklies depend more on advertising revenue than copy sales, while the reverse is true for more specialised monthly publications. Mr Richard Walsh, Chief Executive Officer, Australian Consolidated Press Limited (ACP), said that: 'Some magazines are conceived on the basis that they are not going to go for advertising, they are going to go for a premium (cover price) ...'. He went

on to explain that the price of niche publications is relatively high because they depend on circulation sales for revenue while magazines with wide appeal may have low prices in the hope that they will attract 'a lot more readers and ultimately sell a lot more advertising'. (Transcript p. 1340) 'For a company like ACP, two-thirds of our revenue comes from sales and only one-third comes from advertising'. (Transcript p. 1295)

3.19 Independent Newspapers PLC provided the following estimates of advertising revenue as a proportion of total revenue for the different categories of publications:

- . national/metropolitan newspapers 60 - 70 per cent;
- . regional and country newspapers 55 - 60 per cent;
and
- . magazines 50 - 70 per cent. (Submissions p. 231)

3.20 Suburban newspapers, which are distributed free of charge, depend solely on advertising revenue.

3.21 In 1990 advertising expenditure in print media amounted to \$2 393 million of which \$1 399 million (58.5 per cent) was accounted for by metropolitan/national dailies and Sunday newspapers, \$602 million (25.2 per cent) by other newspapers (regional dailies and country and suburban newspapers) and \$392 million (16.4 per cent) by other print media (magazines and business and rural publications). This compares with

\$1 738 million for all commercial television and \$429 million for all commercial radio. (Commercial Economic Advisory Service of Australia, 1991, p. 6)

Competition with Other Media

3.22 Media industries including print media and commercial radio participate in two separate markets. First, they produce a 'content' output which they either sell or give away to consumers and use it to attract and hold the consumers' attention for a period of time. Second, they sell to advertisers access to the audiences which they attract with their content. The amount charged for access depends on the size and characteristics of the audience and upon the extent of exposure to the audience (size of the advertisement in print and access time on radio and television). This explains the differences in the rates charged for advertisements in different publications as well as differences in the rates for different locations within the same publication (e.g. pages one and three of a newspaper attract higher rates than other pages because they command higher audience attention and reach). It also explains the different rates for peak and off-peak advertisements in the electronic media.

3.23 In a broad sense, therefore, print media compete with other media (electronic, cinema, video, etc.) and with leisure and other activities for the audience's time and compete with other media for the sale to advertisers of 'access to audiences'. In both the content and advertising markets, however, the degree of competition between the various media is determined by the inherent characteristics of the media and by their ability to satisfy the particular needs of audiences and advertisers.

3.24 Although all media provide a mix of information and entertainment, audiences are attracted to them for different reasons and use them in distinctly different ways. Audiences will choose the medium which best satisfies their needs at a particular time and provides them with the greatest perceived benefit in exchange for their time and/or payment.

3.25 The competing media, however, offer different levels of attractiveness to audiences at various times of the day and in different circumstances. For example, newspapers and radio are relatively more attractive in the morning than at other times of the day while television is the dominant medium in the evening. Their different inherent characteristics act to make each of them the preferred medium in particular circumstances. For example, while both newspapers and radio are portable, newspapers allow active participation by the reader in the selection of items of interest and radio will not restrict other activities such as driving a car. Further, in certain circumstances, consumer choice between media is effectively constrained. For example, someone searching for employment opportunities, or for a specific type of used car, is likely to regard newspaper classified advertisements as an almost essential commodity.

3.26 Traditionally, newspapers and magazines have been primarily providers of information while broadcasting and other media, such as film and videos, have been primarily associated with entertainment. There are indications, however, that the largely distinctive roles of print and broadcasting media may be merging at least with regard to some elements. The submission by News Limited stated:

The early role of television was primarily to entertain, with newspapers being the prime source of news, commentary and information. However, over time, as the television industry has matured and as public perceptions have changed, we find that television has placed greater emphasis on news and information and that newspapers have enlarged their focus to include more entertainment and lifestyle content. (Submissions p. 1588)

3.27 Undoubtedly, the merging of roles will have some impact on relative audiences. However, print and broadcast media are sufficiently different to ensure that they are not highly interchangeable from the consumers' viewpoint. For example, while radio and television provide a substantial amount of news and information programs, they are available only at specific times and do not allow the consumer to pursue a particular topic of interest in depth. Newspapers, on the other hand, provide a much larger range of items and allow readers to choose the time and depth of interest.

3.28 Available data indicate that very few people restrict themselves to one medium. For example, at least once a week, 86 per cent of people aged 10 years or more listen to radio (the average weekly listening time is 22 hours per week) and 95 per cent of people, living in households with television, watch television (the average weekly viewing time exceeds 17.5 hours). (BTCE, 1990, p. 49) Many of the people watching television and listening to radio also read newspapers. Each week, 90 per cent of males and 86 per cent of females aged 14 years or more read a newspaper at least once. Daily newspapers reach 68 per cent of males and 61 per cent of females. The reach of Sunday papers is 55 per cent and 52 per cent respectively. (Newspaper Advertising Bureau of Australia Ltd, 1991, pp. 11 and 14)

Advertising

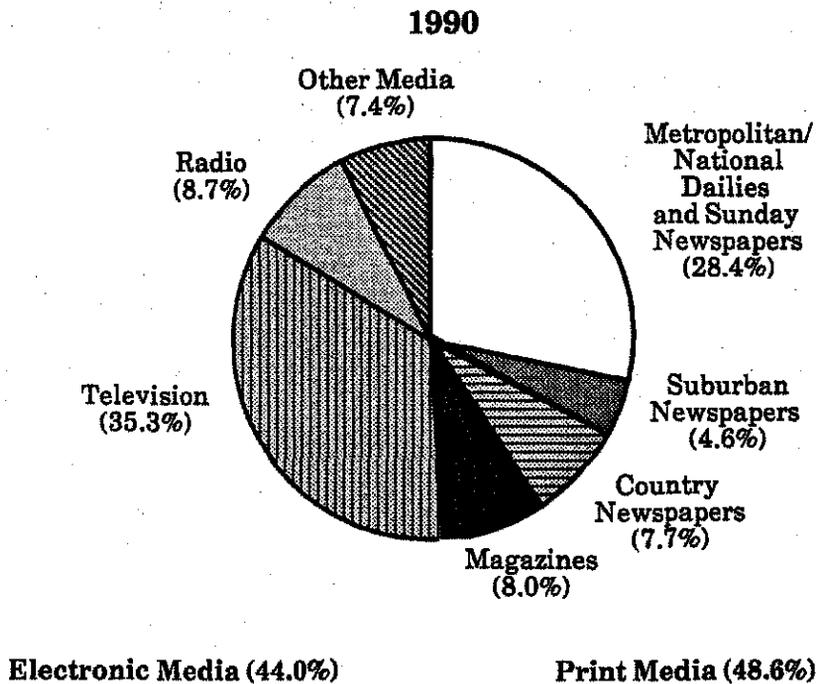
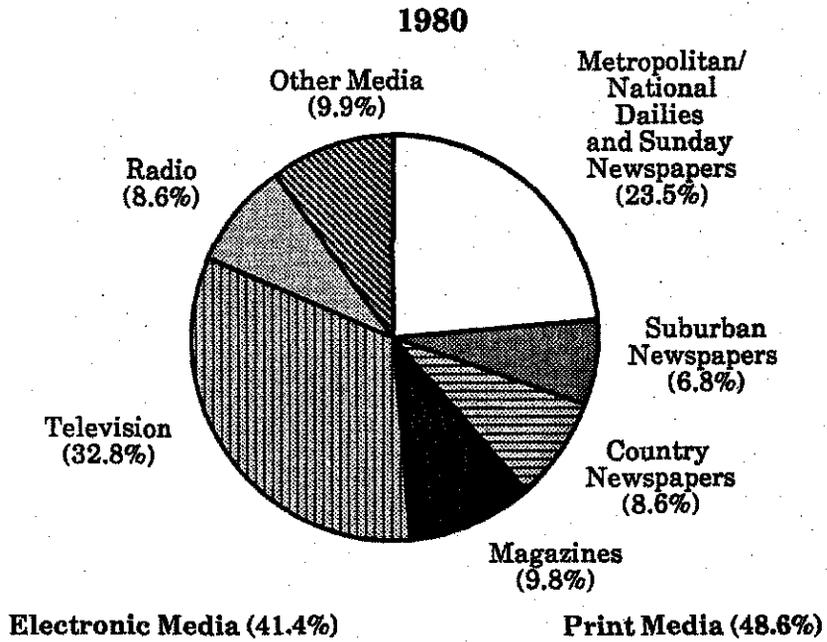
3.29 Data on advertising expenditure show that the print media consistently account for a little less than half of all advertising expenditure in main media.² In 1990, print media accounted for 48.6 per cent of advertising expenditure of which 28.4 per cent was accounted for by metropolitan/national dailies and Sunday newspapers. The corresponding proportions in 1980 were 48.8 per cent and 23.5 per cent respectively. The increased proportion going to the metropolitan/national papers was accompanied by a corresponding reduction in the proportions accruing to other sectors of the print media. (see Figure 3.1 at page 60 for details)

3.30 Television's share of advertising expenditure increased from 32.8 per cent in 1980 to 35.3 per cent in 1990. The share going to radio did not change significantly over the same period. The gain by television was accompanied by a corresponding decline in other media (cinema and outdoor and transport).³

² The average for the 10 years to 1990 was 49.0 per cent. The proportion varies slightly from year to year and as been as high as 50.5 per cent in 1982 and as low as 47.8 in 1987.

³ This does not necessarily imply a direct shift of expenditure from other media to television. Whether such a shift took place cannot be determined from the available data and other possibilities such as the entry of new advertisers favouring television, for example, cannot be excluded.

Figure 3.1: Comparison of Advertising Revenue Shares in Main Media



Source: Commercial Economic Advisory Service of Australia (1991)

3.31 In aggregate, therefore, the data do not provide evidence of any significant shifts in the balance of advertising expenditure between print and electronic media. However, while the aggregate results show little change, it does not necessarily follow that individual advertisers will allocate a fixed proportion of their advertising budgets to a particular medium each year. Indeed the proportion is likely to change in response to changing needs for particular types of advertising as well as in response to price and audience reach relativities between media.

3.32 Generally, it would appear that electronic and print media are not close substitutes for all forms of advertising. For example, classified advertising is almost exclusively the province of newspapers. Similarly, promotion of national brands (e.g. Coca Cola), image or lifestyle, generally make television advertising almost indispensable. The various media are also often used in a complementary role. The available data do not permit exhaustive analysis in this regard.

3.33 Advertisers select a medium not only on the size and demographic characteristics of its audience but also on the basis of the inherent characteristics of the medium itself. For some products television advertising is essential, while for others it may not be very effective. Advertisers also usually seek to reach audiences within their sales catchment areas and are less interested in audiences residing elsewhere. For example, a local independent supermarket is more likely to prefer advertisements in a suburban newspaper while a supermarket chain will probably prefer advertisements in a metropolitan newspaper.

3.34 To be directly competitive with each other, different media would need to offer similar levels of benefits to an advertiser. Similar levels of benefits could arise from similar audience levels or from smaller, but better targeted audiences in terms of their demographic characteristics (e.g. choice between a national newspaper and women's magazine). Similar benefit levels could also arise from the combination of different audience sizes with the level of effectiveness a particular medium offers for the type of product being advertised (e.g. retail advertisements on television and metropolitan daily newspapers).

3.35 In his book, *Media Economics*, Professor Robert G Picard⁴ summarises the issue of intermedia competition for advertising as follows:

Although there are similarities among media that rely upon sales of access to audiences for income, these media are not completely interchangeable because they provide significantly different types of access to audiences. The major reason that media are not fully interchangeable in the advertising market is that their audiences differ widely in terms of product usage patterns as well as in geographic, demographic, and psychographic terms, all of which are key elements in advertisers' choices of media. ...

In addition, the various media have unique qualities that make them suitable or unsuitable for various messages ... For example, the media needs of grocery and department stores, whose managers wish to display their products in ads, are best met by the inherent properties of newspapers. Companies wishing national brand name recognition, such as McDonald's and Procter and Gamble, find television most suitable for conveying their message to meet that need. (Picard, 1989, p. 24)

⁴ Associate Professor and Director of the Communication Industries Management Program at Emerson College, Boston, MA.

3.36 The evidence before the Committee suggests that while the media may be substitutable to a degree, these media are not fully interchangeable. The evidence presented to the Committee broadly supports this conclusion. Professor Officer stated:

Although there is clear competition between the print media and other forms of information distribution, such as television and radio, the degree of substitution between these alternative media is not perfect and therefore there is potential, in theory, for some elements of market power to creep into different aspects of the information market.

For example, in the context of advertising reach and frequency, typically newspapers are a more effective (cheaper) form of advertising so that for some forms of advertising, newspapers may be the only effective medium. (Submissions pp. 1559-60)

3.37 This view was consistent with that of the Trade Practices Commission. Its submission stated that: 'The Commission certainly accepts that in terms of provision of news and information there is some substitutability between print and electronic media, and that for advertising of certain particular products there is substitutability'. (Submissions p. 452) However, its market place enquiries, particularly of major advertisers, has tended to indicate that competition is limited, and that there are substantial core markets for print and electronic media separately.

3.38 In a subsequent submission in response to questions put by the Committee, Professor Officer argued that existence of core markets did not negate the existence of competition between newspapers and other media:

The observation by the Trade Practices Commission that its inquiries indicate a distinct core market for newspaper advertising does not imply that the print media is not in competition with other forms of media. it is those who are prepared to use alternative forms of advertising as well as newspaper advertising which cause competition between the print and other forms of media. There is, inevitably, a core market for each of the media but this does not imply that the various forms of media are not competing for advertising. (Submissions p. 2967)

3.39 There are no well known Australian studies on the level of competition between newspapers and other media. Although it may not be possible to draw conclusions from overseas research, the results of an American study may provide some insight into this issue. Professor John C Busterna⁵ measured the cross-elasticity of demand (i.e. the substitutability) for national newspaper advertising and various other media including radio and television. The study found that 'the cross-elasticity of demand between newspapers and other national media is consistently nil across all media'. According to him, the findings could be explained by the following two major factors:

First, it is clear that advertisers do not possess significant price sensitivity between newspapers and other media to consider newspapers a viable alternative for advertising that was intended to be placed in other media. Second, claims of significant competition between newspapers and other media often come from those who have a newspaper industry (seller) perspective rather than an advertiser (buyer) perspective. (Busterna, 1987, p. 350)

⁵ Professor John C Busterna is Assistant Professor of Journalism, School of Journalism and Mass Communication, University of Minnesota. He has undertaken and published a number of studies on economic characteristics and performance of newspapers.

3.40 Professor Busterna pointed out that his conclusions relate to national advertising only and may not hold for local or retail advertising. In a subsequent paper he acknowledged the existence of some competition but argued that other factors influence media choice and limit substitution:

To some degree, broadcast stations ... compete with daily newspapers for advertising dollars. In practice, however, most advertisers do not see the different media types as good substitutes for each other. Advertisers and advertising agencies will usually select the media types within which an advertising campaign will run prior to the negotiation process to purchase time and space. This is because it is believed that there are other more important factors in determining advertising effectiveness than the cost efficiencies between various media outlets. (Busterna, 1988, p. 41)

3.41 Dr Allan Brown, Senior Lecturer in Economics, Griffith University, argued along similar lines before the Committee:

What tends to happen is that when advertising campaigns are designed, for the most part, particularly with the larger advertisers, they already have in mind what medium they want to concentrate their campaign on. In economic terms, there is very little cross-elasticity of demand for advertising between, say, newspapers and television. More simply, the products of advertising are not substitutable. That is, if there are price changes in advertising, either in newspapers or on television, most often it does not cause any change in the advertiser moving from one medium to another. So, to a very large extent, the market for newspaper advertising is quite separate from the market for television advertising, even in the same metropolitan area. (Transcript pp. 1005-06)

3.42 Independent Newspapers PLC put this in a slightly different way:

The broad conclusion is that the main media are viewed by advertisers in terms of a spectrum, with branding images at one end and retail images at the other. In broad terms, television is at the branding end and newspapers are at the retail end, with radio and magazines in the centre. The main media segments are not homogeneous from the advertiser standpoint, and substitution between categories is limited by their particular characteristics. (emphasis in original) (Submissions p. 233)

3.43 Mr Stephen Allen, Managing Director, Advertising Investment Services, provided some further evidence indicating that advertisers are not highly sensitive to price changes and that shifts from one medium to another are not commonplace. He said:

It is not often done that an advertiser will move from one medium to another but it is in their weaponry. I said earlier, ... that it requires a fairly brave client to suddenly abandon a medium that has worked for him, or he imagines has worked for him, and move to another. He is suddenly in uncharted waters. So, for McDonalds to stop using television and move to print, they would have to be pretty brave. (Transcript p. 1483)

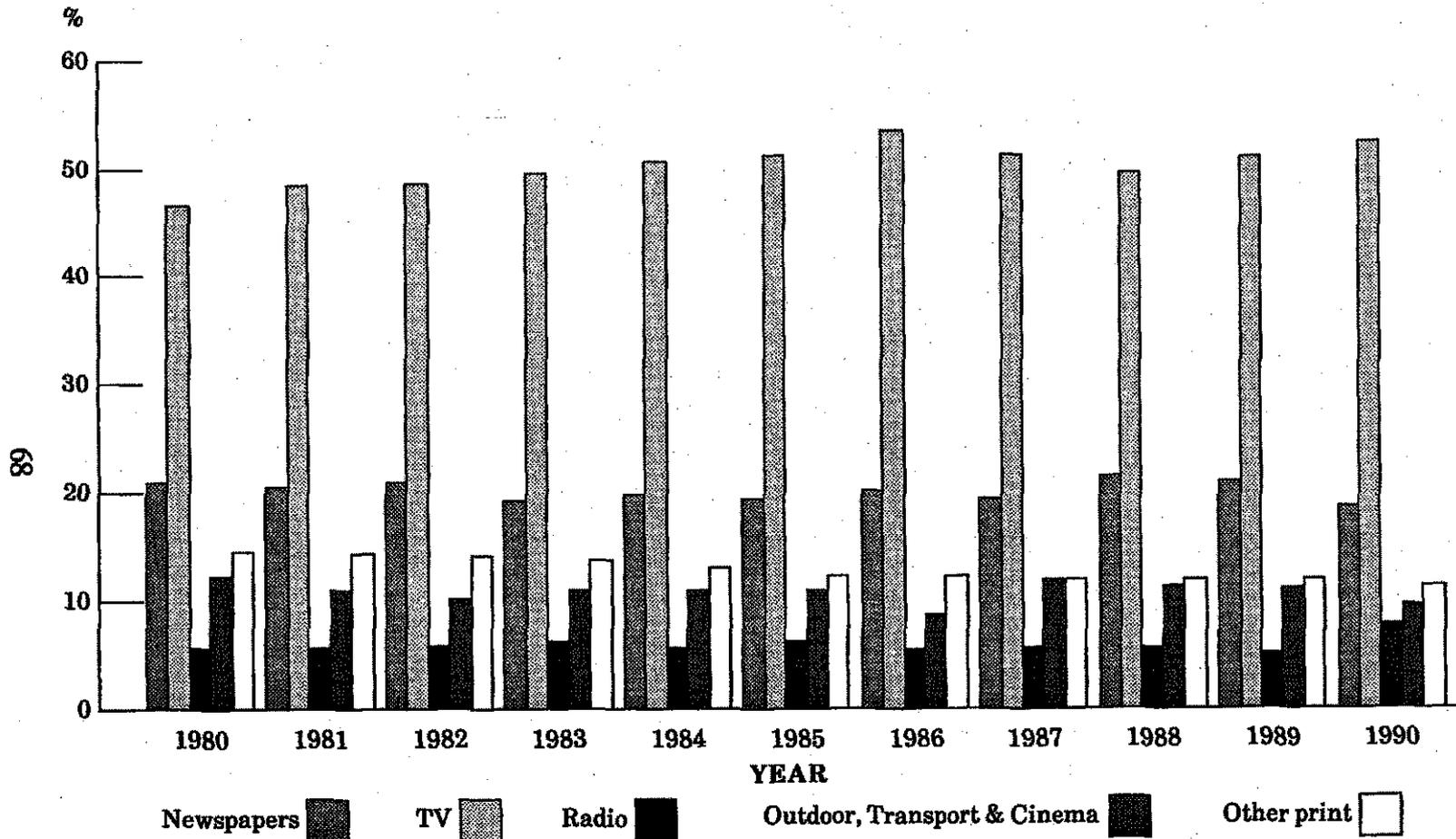
3.44 To some extent, advertising expenditure data suggest that substitution is not high. These show that television dominates national advertising while newspapers dominate non-national advertising (both retail and classified) and that the dominance has changed little in the 10 years to 1990. (see Figures 3.2 and 3.3 at pages 68 and 69) The graphs are based on data presented at Appendix 8. Furthermore, national advertising typically represents around 90 per cent of advertising revenue for capital city

television and 72 per cent for non-capital city television, but only around 36 per cent for metropolitan and national newspapers. (BTCE, 1990, pp. 70 and 74). These figures should not be surprising given that television would not be a good substitute for classified and, to a lesser degree, retail advertising.

3.45 The composition of the major, national advertising product groups utilising television and/or newspapers for advertising suggests that the level of substitutability for some products may be significant. Table 3.2 at page 70 shows the 10 largest national advertising product groups for metropolitan dailies and television in 1990. Those groups account for 56.5 per cent of national advertising on metropolitan television and 60.7 per cent in metropolitan dailies. As shown in Table 3.2, half of the product groups are common to both media. Even within the common product groups the extent of substitutability may not necessarily be large because of the tendency by advertisers to use both media in a complementary role (i.e. it is not uncommon for the same product to be advertised in both media).

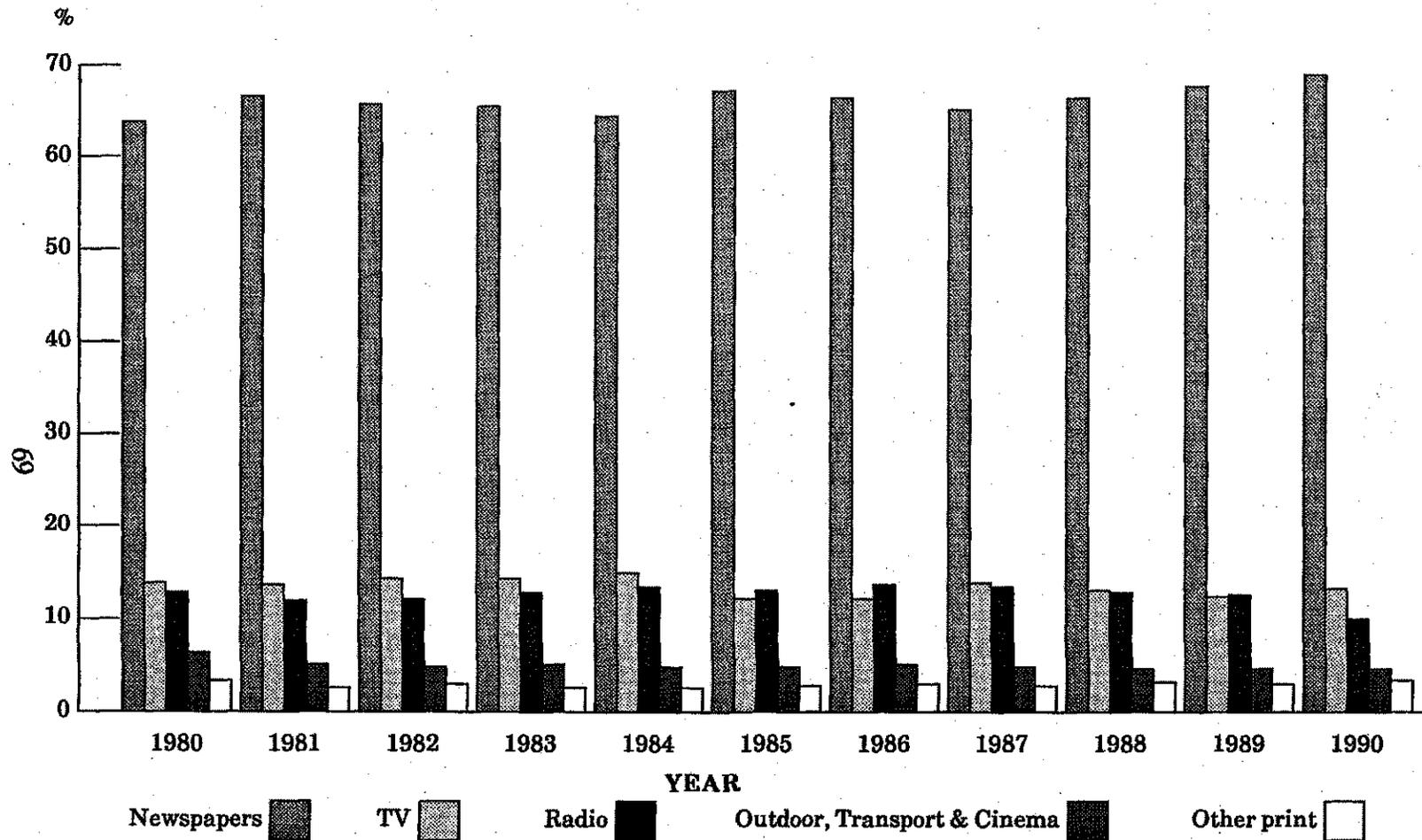
3.46 News Limited presented data on the top 10 national advertising categories ranked in order of aggregate expenditure in all main media (as distinct from the above which ranked the groups within each medium) for 1988 and 1990. It also presented data showing changes in the shares of national advertising in each medium for the years 1988 to 1990. On the basis of their data News Limited claimed that newspapers had 'evidently lost considerable market share of National advertising revenue to Television'. (Submissions pp. 2948-49)

Figure 3.2: Media's Share of National Advertising 1980 - 1990



Note: Actual values provided at Appendix 8.
 National advertising generally refers to display advertising placed in two or more major markets.
Source: Commercial Economic Advisory Service of Australia (1991)

Figure 3.3: Media's Share of Non-National Advertising 1980-1990



Note: Actual values provided at Appendix 8.

Non-national advertising generally includes retail, classified, semi-display, local and other non-display advertisements.

Source: Commercial Economic Advisory Service of Australia (1991).

Table 3.2: Top Ten National Advertising Product Groups (1990)

(a) Metropolitan Dailies

Product Group	\$ '000	%
Motor Vehicles & Accessories	83 208	22.6
Banks	42 964	11.7
Travel & Tours	34 596	9.4
Governments	19 733	5.4
Smoking Accessories	19 598	5.3
Office Equipment	18 341	5.0
Educational	13 009	3.5
Magazines, Newspapers & Books	12 898	3.5
Building Materials & Ind Machinery	8 674	2.4
Household Equip, Furnishings & App	7 615	2.1
Total Top 10	260 636	70.8
All Other Groups	107 488	29.2
Total	368 124	100

(b) Metropolitan Television

Product Group	\$ '000	%
Foodstuffs	168 634	14.2
Motor Vehicles & Accessories	145 524	12.3
Records	59 006	5.0
Travel & Tours	52 775	4.5
Household Products & Cleansers	49 931	4.2
Banks	41 751	3.5
Household Equip, Furnishings & App	40 504	3.4
Confectionery	38 187	3.2
Office Equipment	37 846	3.2
Insurance	35 724	3.0
Total Top 10	669 882	56.5
All Other Groups	514 854	43.5
Total	1 184 736	100

Note: National advertising generally refers to display advertisements placed in two or more major markets.

Source: Commercial Economic Advisory Service of Australia (1991)

3.47 While the data presented by News Limited do show an almost three per cent increase in television's share of national advertising between 1988 and 1990, the change should be viewed in the context of longer term trends. As shown in Figure 3.2 at page 68, television's share of national advertising has varied significantly in recent years and the shifts noted by News Limited are not uncommon. In such a situation there is a danger in drawing conclusions from short term observations rather than longer term trends. For example, had recent changes in television's share of national advertising been compared with its share in 1986, it would have shown a noticeable decline to 1988 followed by growth to a level in 1990 which was still smaller than the 1986 level. Over the 10 year period between 1980 and 1990 the available data show a steady growth in the share of national advertising expenditure accruing to television reaching a peak in 1986. That share then declined for two years but subsequently recovered to almost the 1986 level in 1990. The share of national advertising revenue accruing to newspapers over the same period seems to fluctuate slightly from year to year, but the fluctuations do not appear to be correlated with the changes in the share accruing to television.⁶ For example, in some years the data show the share of both television and newspapers increasing while in others the shares are changing in opposite directions. (see Figure 3.2 for details) Overall, the data do not appear to support the existence of a trend suggesting a significant displacement of national advertising from newspapers to television.

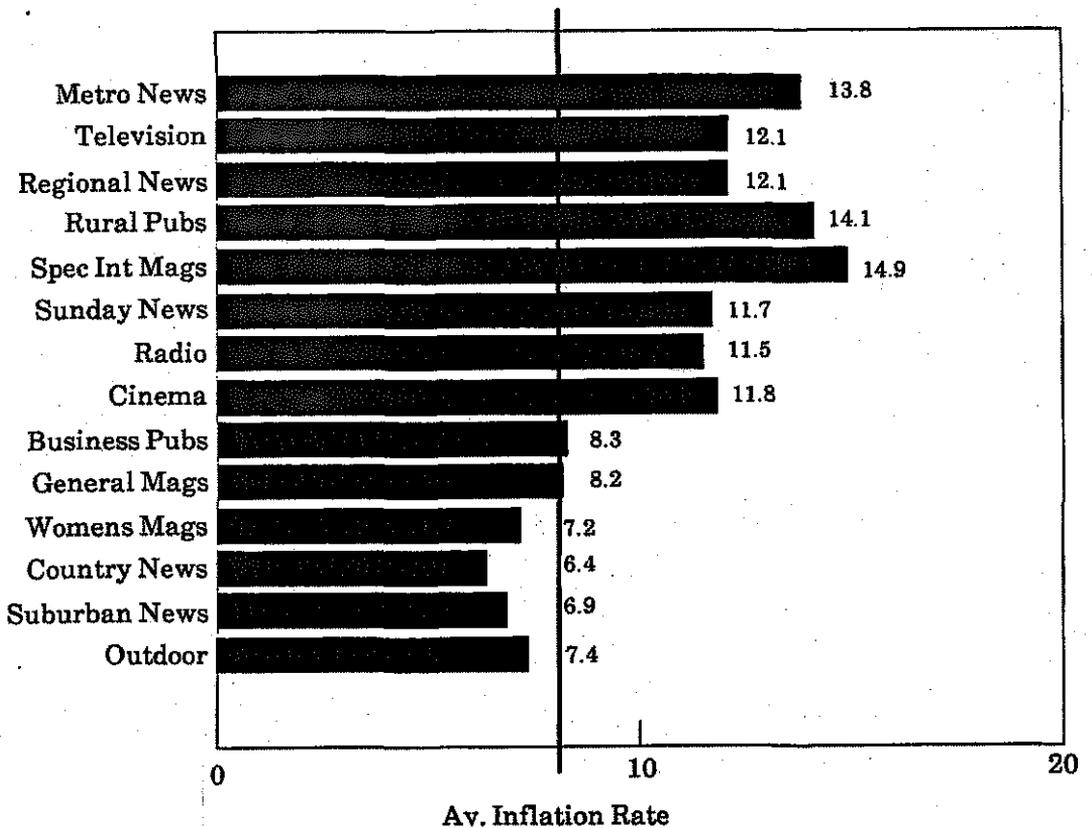
⁶ This cannot be established conclusively without a detailed analysis over a relatively long period of time.

3.48 Independent Newspapers PLC provided details of the rate of growth of main media groups between 1980 and 1990. The details are reproduced in Figure 3.4 at page 74. They show that over that period metropolitan newspapers achieved a nominal rate of growth of 13.8 per cent per annum. For television the rate was 12.1 per cent per annum. These figures therefore indicate that, relative to television, metropolitan newspapers gained an increased share of advertising over that period. Indeed, additional data, also provided by Independent Newspapers PLC, show that the print media's share of advertising expenditure has changed little since the early 1970s and that television's increased share since then was gained mainly at the expense of non-print media. (Submissions p. 234)

3.49 The level of substitutability between radio and newspapers is more difficult to gauge using these data. The composition of advertising expenditure on radio is similar to that of newspapers. National advertising accounts for around 35 per cent of radio advertising. (BTCE, 1990, p. 70) On the other hand, the more localised reach of radio stations (than for daily newspapers) and the relatively large number of stations operating in capital cities mean that radio audiences tend to be segmented into more closely related demographic groups. This would imply that advertisers using radio are probably seeking to deliver their messages to more specific or highly targeted audiences than those offered by wide circulation newspapers.

Figure 3.4: Growth in Advertising Expenditure – Main Media Segments

Nominal Annual Growth Rate 1980 – 1990



Note: Av. Inflation Rate refers to average annual CPI rate of growth.

Source: Submissions p. 236

Cross-Media Rules

3.50 The current broadcasting legislation prohibits persons from holding a 'prescribed interest' in a commercial television licence (or a commercial radio licence) and a newspaper that is associated with the service area of the television (or radio) licence (*Broadcasting Act 1942*, s.92JB). Essentially, the Act defines prescribed interest as being in a position to directly or indirectly control more than 5 per cent of the votes, shares or financial interests in a radio or television licensee company (s.89F(1) and (2)) or more than 15 per cent of the votes, shares or financial interests in a newspaper (s.89F(3)). The cross-media rules also prohibit prescribed interests in a commercial television licence and a commercial radio licence which have a substantial market in common.

3.51 The restrictions were introduced in 1987 with respect to common interests in television and newspapers and television and radio. In 1988 they were extended to prohibit common interests in radio and newspapers. 'Grandfather' provisions allowed the retention of pre-existing interests in conflict with the rules as long as owners did not acquire additional media assets.

3.52 The 1987 cross-media restrictions were introduced concurrently with liberalisation of television ownership restrictions from the 'two-station rule' to 60 per cent population reach 'in order to curb a major expansion in television by existing newspaper or radio interests which already have considerable influence over the formation of public opinion'. (The Hon. Michael Duffy MP, the then Minister for Communications, in a second reading speech, House of Representatives, *Debates*, 29 April 1987, p. 2194)

3.53 Indirectly, the cross-media rules have also had a substantial effect on the concentration of market power in the advertising market. Data presented in Part 1 of the News Limited submission provided estimates of the earnings of the major print media groups in 1985 and 1990. As shown in Table 3.3 at page 77, following the Herald and Weekly Times takeover and the subsequent divestiture of broadcasting assets by both News and Fairfax there has been little change in the total share of the market held by each of the continuing major groups.

3.54 Although the emergence of the TEN and SEVEN television networks, independent of print media ownership, has increased the number of major players in the advertising market from four to five, the level of competition has probably declined. Each player, with the exception of Australian Consolidated Press, now operates in only one medium. Thus, whereas there were four major players in print and four in television in 1985, the number declined to three in each of those media by 1990. In the case of print media advertising, in particular, News Limited has emerged as the dominant player.

3.55 Cross-media rules are discussed further at Chapter 9.

Table 3.3: Advertising Share of Major Media Groups

GROUP	TELEVISION		PRINT MEDIA		COMBINED PRINT AND TELEVISION	
	MARKET SHARE (%)		MARKET SHARE (%)		MARKET SHARE (%)	
	1985 ²	1990 ²	1985	1990	1985	1990
Fairfax	10.3 ³	0	40.6	36.8	22.5	15.7
News Limited	19.7	0	32.4	56.6	22.2	24.1
ACP	23.4	35.5	4.4	6.1	12.8	18.9
HWT	13.6	-	31.6	-	22.3	-
10 Network	-	23.4	-	0	-	10.8
7 Network	-	27.6	-	0	-	12.7
Proportion of the industry's total advertising revenue received by the major media groups ¹ (%)	57.1	78.1	96.7	90.0	71.8	74.0

- Notes:
- 1 Figures for each group include value of in-house advertising which is excluded from the industry total figures. Hence the sum of the individual shares exceeds the figure quoted as the proportion of the industry's total advertising received by the major media groups.
 - 2 The television data for the two years are not strictly comparable. The figures for 1985 relate to 8 stations (ATN 7 for Fairfax; TCN 9 and GTV 9 for ACP; TEN 10 and ATV 10 for News; and HSV 7, BTQ 7 and ADS 7 for HWT) while those for 1990 relate to 13 stations (TCN 9, GTV 9, QTQ 9 and STW 9 for ACP; TEN 10, ATV 10, ADS 10 and NEW 10 for the TEN network; and ATN 7, HSV 7, BTQ 7, SAS 7 and TVW 7 for the SEVEN network).
 - 3 Figure amended with agreement of submitter to correct typographical error in submission.

Global Interests of Print Media Owners in Australia

3.56 The print media today are characterised by globalisation (i.e. the same person owning print in different parts of the world) and conglomerates (ownership of diverse businesses in different countries).

3.57 This globalisation gives print media owners economies of group ownership and ready access to international technology and management practices. Globalisation also increases market power and the conglomerate nature of the business raises questions of conflict of interest in the reporting of these business activities.

3.58 News Corporation Limited, whose major shareholdings are a series of Murdoch family trusts, has extensive international investments in the print/electronic media and other industries. The print media assets include British newspapers such as *News of the World*, the *Sun*, *Today*, and *The Times*. The United States print media interests include the *Boston Herald* and the *Chicago Sun-Times*. Electronic media interests included Sky Television (now British Sky Broadcasting) in the United Kingdom and Fox Television in the United States and the film company 20th Century Fox. (Belfield, 1991)

3.59 Australian Consolidated Press Holdings Ltd whose major shareholder is Mr Kerry Packer also has extensive international business interests. In addition to his Australian magazines and control of the Nine Network (television), Mr Packer has interests in television broadcasting in Fiji and Papua New Guinea, an independent television news agency in the

United States and magazine publishing and distributing in New Zealand. His interests, media and non-media, are in over 100 companies in 18 countries. (*The Sunday Age*, 8 September 1991)

3.60 Mr Conrad Black, now the major shareholder of the John Fairfax Group, has extensive print media interests throughout the world. These include 75 daily newspapers in the United States, *The Daily Telegraph* and *The Sunday Telegraph* in the United Kingdom, *The Jerusalem Post*, 150 weekly publications in various parts of the world and 13 newspapers in Canada. Mr Black's main media holding company in Canada is Hollinger Inc. (*The Age*, 17 December 1991)

CHAPTER 4

CONCENTRATION AND COMPETITION IN PRINT MEDIA

Introduction

4.1 This chapter discusses the concentration of ownership which has intensified in recent decades and its impact on competition within the print media industry. The impact of concentration on print media content will be considered in a subsequent chapter dealing with editorial independence.

4.2 Circulation and advertising sales are inextricably related. Readers purchase a publication to obtain access to the information it contains (including advertising), and in turn advertisers buy space to gain access to the readers. The higher the circulation the more attractive a publication is to advertisers. Consequently, publishers have an incentive to expand circulation because it will enable them to sell more advertising space and/or charge higher rates for it. Since one of the reasons for buying a publication is because of the advertising it contains, the increased level of advertising is likely to increase the appeal and readership of the publication to many readers and this leads to successive rounds of increased circulation and advertising space. The higher circulation will also enable the publication to take advantage of the benefits provided by increased economies of scale. Ultimately, the combination of economies of scale with the effects of the 'circulation spiral' is likely to lead to dominance over competitor publications in a given market.

4.3 Group economies may also operate in both the same or different geographic markets. A publisher would be capable of reducing unit costs by spreading overheads over a wide range of titles and through more intensive utilisation of its production facilities. In addition, as noted by Dr Brown of Griffith University:

... a firm publishing in different markets will be able to make more intensive use of its managerial resources; editorial costs can be spread over a number of papers in different markets by the syndication of national and international news articles; a central advertising division can sell advertising on behalf of group newspapers in different markets; and centralised buying will attract discounts for bulk purchases. (Submissions p. 119)

4.4 The existence of economic incentives, of course, will have substantial influence on the competitive behaviour of publishing groups and will determine the level of competition in a given market. In the following sections of this chapter we will examine the impact of such behaviour on the structure and economic performance of the various sectors of the print media.

Functional Structure of the Print Media Industry

4.5 In an economic sense, the print media industry, like other industries, uses various inputs to produce an output which it sells for profit. The production of the output involves:

the collection of information directly, by employing reporters and columnists, and indirectly by purchasing the outputs of wire services and

freelance journalists, or through syndication arrangements with both domestic or overseas publishers;

the preparation of articles by journalists from the collected information;

the editing of the articles by editors;

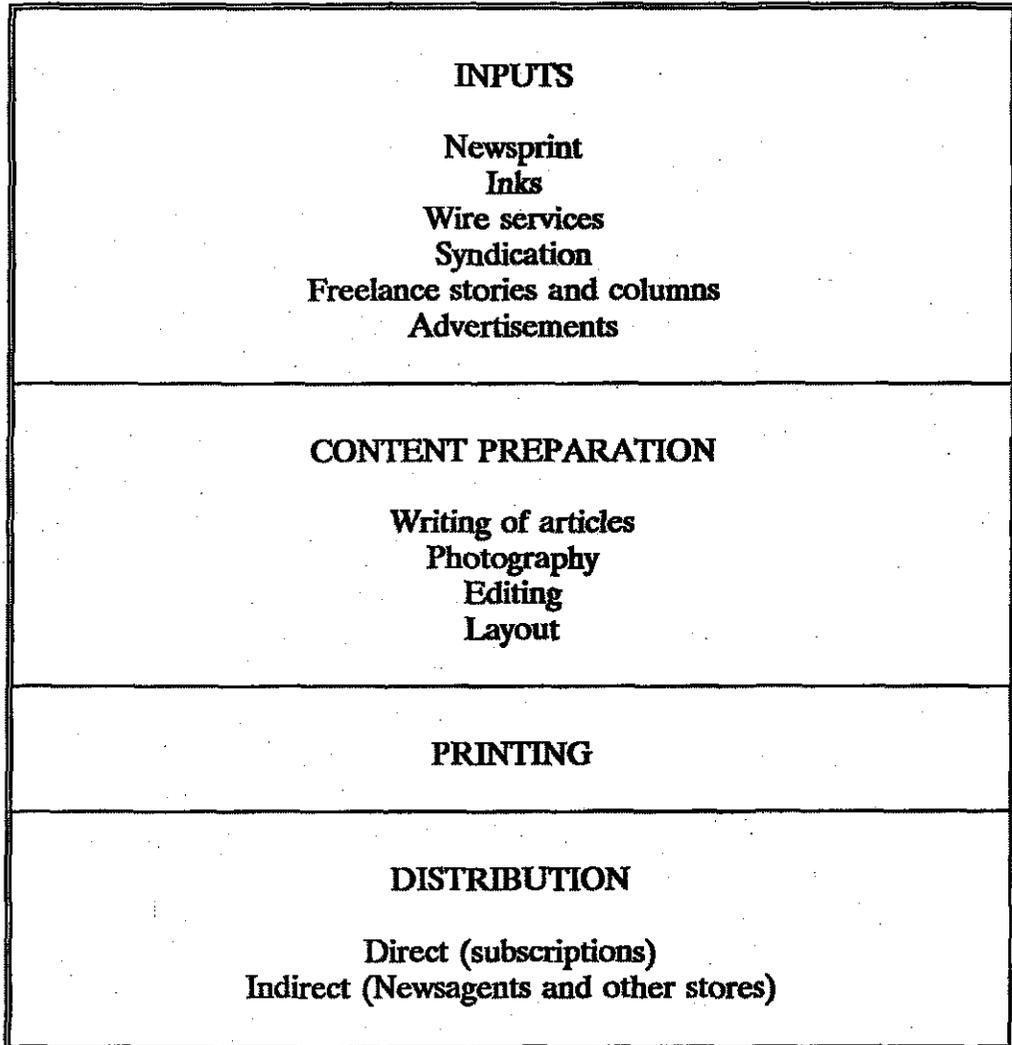
determination of the order in which articles and advertisements (generally supplied by advertisers) are located in the publication (i.e. layout); and

printing of the publication using newsprint and inks as inputs.

The final output is distributed and sold directly (through subscriptions) or indirectly (through newsagents and other stores) to consumers - see Figure 4.1 at page 84.

4.6 For daily newspapers the various stages of the production process are generally integrated, with the owner of the final stage (the printing press) also controlling most of the intermediate stages of information collection, editing and layout. For magazines, the printing stage is not necessarily integrated with the earlier stages of production. Distribution is also generally integrated with the production process.

Figure 4.1: Print Media Production Process



The Print Media Market

4.7 Much of the evidence before the Committee directly or indirectly impinged upon the concept of a market. Witnesses used terms such as market power, concentration and influence in the market, competition or lack thereof, and various other concepts, all of which are meaningful only in the context of an implicitly or explicitly defined market.

4.8 A market is essentially an economic concept and generally refers to a closely interrelated group of buyers and sellers. The boundaries of the market are determined by the properties of the product being exchanged and by the geographic area in which the exchange takes place. These elements are often referred to as the 'product' market and the 'geographic' market.

4.9 Competition in the product market can only occur between products which are the same or close substitutes (e.g. between butter and margarine but not between bread and cheese). The geographic dimension is important because it defines the limits of the area within which products compete with each other (e.g. a concert at the Sydney Opera House may compete with a theatre production at the Seymour Centre but not with a similar concert at the Adelaide Festival Hall).

4.10 In addition to the economic characteristics which they share with other products, print media products are seen as having other dimensions which are not easily captured by the usual concepts of economic markets. The Australian Centre for Independent Journalism (ACIJ) said:

If the press, or the media more broadly, was just another industry producing a consumer product this may not of itself be a major problem. It could be dealt with within the general framework of competition policy and consumers and producers could take their chances in the marketplace. But the marketplace for ideas and information, while amenable to such capture is of greater significance in the health and well-being of a democratic state. (Submissions p. 1216)

and

At a conceptual level, even though newspaper markets are by their nature geographically limited (Brown:1986:5), there is a broader market which is more difficult to define, but easier to characterise. That (is) the public sphere of the nation, into which all these publications feed and on which they draw. (Submissions p. 1222)

4.11 Various other submissions supported the concept of the special nature of print media which extends beyond the confines of economic markets. Others rejected such an idea. As Mr Fred Brenchley, media consultant, observed:

I think the market for newspapers is defined now broadly by people who want to define it for their own purposes and to suit their own arguments. There is no doubt that there is a national market for the press and there is no doubt that there is a local market for the press. You cannot say that one exists without the other. They are just different markets, that is all. There is no doubt that there is a wide information market in society. Of course there is. There are also discrete or core markets for press and television and radio, and that applies for both readers and advertisers. (Transcript p. 693)

4.12 The difficulty with defining the appropriate market spills over into discussion of ownership concentration. Measurement of ownership concentration and assessment of its impact is possible only within a clearly defined product and geographic market. The definition of the product and geographic limits are crucial. If they are inappropriately broad, the level of concentration will be relatively low. Conversely, if they are inappropriately narrow, the level of concentration will be relatively high.

4.13 Professor Officer pointed out the factors which should be considered when defining markets and assessing the impact of concentration:

Firstly, a relevant product market has to be established.

...

In general, separation of markets and measuring the concentration in each market will tend to increase the concentration ratios, implying that where products are not substitutable it is easier to gain market share and perhaps market influence in one product or the other, rather than both.

The second issue to be resolved in the context of measuring concentration is the relevant geographic market or spatial bounds to the product market. Once again the issue, in the context of geographic markets, is substitutability.

...

The final aspect of these measures of concentration and more particularly the inferences that may be drawn from them, which is often overlooked, is the importance of time. In the short run an entrenched operator is often able to exercise market power to extract higher returns but this is short-lived as competition moves in to share in the benefits and therefore eliminate any abnormal profit.

The importance of time is very much a function of the nature of the industry and, in particular, the capital required to reach an economic scale of production. Other-things-being-equal, the more capital-intense an industry is the longer the time required for competition to eliminate any 'pockets' of market power because of the greater proportion of fixed-to-variable cost. (Submissions pp. 1573-74)

4.14 The substitutability of print with other types of media for both audience and advertising within the same geographic market was discussed in detail in Chapter 3. The conclusion reached there was that although there is some competition between the various media, that competition is limited. The time issue is essentially an element of market contestability which will be discussed in detail in Chapter 5 on Barriers to Entry. The following discussion concentrates on elements of competition and appropriate definition of print media markets.

Competition Within Print Media

4.15 For competition between products or services to be effective, they must be highly substitutable from the consumer's viewpoint. For example, a commuter train service is highly substitutable for a commuter bus service if they are both easily accessible to the consumer. However, even though the two services may be essentially the same to the consumer, they would not be highly substitutable if the consumer had to travel a substantial distance or faced other impediments to get access to one of them.

4.16 Within the print media industry, newspapers, of course, compete with one another and with other elements of the industry (e.g. magazines) for readers and for advertisers. The nature of the medium and the

geographical coverage of its primary market are particularly important determinants of competition. By their very nature different elements of the print media have different primary market areas. National newspapers and magazines draw their readership from a dispersed audience across the country; metropolitan or regional newspapers have a more geographically condensed reach; and suburban newspapers have an even smaller, more condensed reach. These differences suggest that the intensity of competition between different levels of the print media is likely to be low.

4.17 To be directly competitive for readership, the different elements of the print media would need to be highly substitutable with each other in terms of their content and primary market areas. While a national newspaper shares in part the primary market areas of metropolitan dailies, it lacks the focus on, and extent of, local content which the metropolitan papers offer to their readers. Similarly, for advertisers these two levels of the print media would compete with each other to some extent for national advertisements but would not compete significantly for more localised advertisements (e.g. a Sydney car dealer would be unlikely to advertise in a national newspaper but a car manufacturer may be attracted by both metropolitan and national papers).

4.18 Considerations of the primary markets in which publications are distributed have a substantial bearing on the level of competition in the industry. In the case of newspapers, there is no significant competition between two metropolitan dailies published in two distinct geographic markets. For example, a Sydney metropolitan daily would offer little, if any, direct competition to a Melbourne daily. While the content of the two newspapers may have some common elements, the focus of much of the

content would be on local issues of interest. Indications are that at least 85 per cent of the circulation of metropolitan dailies represents copies sold in the city of publication. Furthermore, since advertisements are usually directed at the bulk of the readership which is drawn from the primary market areas of the respective newspapers, they will necessarily have a localised focus.

4.19 Currently, only three capital cities in Australia (Sydney, Melbourne and Adelaide) have two daily newspapers directed primarily to their metropolitan areas. The other capital cities are primary market areas for only one daily newspaper. Two national dailies are also published. They are available in all capital cities and partially compete with metropolitan dailies. Three capital cities only have more than one Sunday paper. (see Table 4.1 at page 91 for details)

Table 4.1: Daily and Sunday Newspapers in Capital Cities

CITY	DAILIES	SUNDAY
Sydney	Sydney Morning Herald (Fairfax) Daily Telegraph/Mirror (News)	Sun-Herald (Fairfax) Sunday Telegraph (News)
Melbourne	Age (Fairfax) Herald-Sun (News)	Sunday Age (Fairfax) Sunday Herald-Sun (News)
Brisbane	Courier-Mail (News)	Sunday Mail (News) Sunday Sun (Management owned)
Adelaide	Advertiser (News) News (Management owned)	Sunday Mail (News)
Perth	West Australian (WAN)	Sunday Times (News)
Hobart	Mercury (News)	Sunday Tasmanian (News)
Canberra	Canberra Times (Stokes)	Canberra Times (Stokes)
Darwin	NT News (News)	Sunday Territorian (News)
National	Australian (News) Financial Review (Fairfax)	

4.20 Even in those capital cities where the metropolitan area provides the primary market for more than one newspaper, direct competition is limited. Generally, in metropolitan markets with more than one daily paper the papers tend to be differentiated in terms of consumer appeal. In his submission, Dr Brown stated:

... competition between morning dailies exist only in the two largest markets, and in both cases is indirect competition between a mass-appeal paper and a (smaller circulation) quality paper - between the Daily Telegraph-Mirror and the Sydney Morning Herald in Sydney, and the Herald-Sun and the Age in Melbourne. (Submissions pp. 123-24)

To some extent this was supported by confidential information provided by News Limited indicating that the respective readership of *The Sydney Morning Herald* and *The Daily Telegraph Mirror* had substantially different distribution densities in the various regions of the Sydney metropolitan area.

4.21 Differentiation is also evident from the type of advertisements published in the newspaper. In evidence to the Committee, Mr Chris Warren, Federal Secretary of the Australian Journalists' Association (AJA), said:

You can see, most dramatically in Melbourne, a distinction between the *Age* and the *Herald-Sun*. They cater to different advertisements. The *Herald-Sun* tends to dominate ... display advertising, even to a much greater extent than the *Telegraph Mirror* does in Sydney. Similarly, the *Age* tends to dominate classifieds even more than the *Sydney Morning Herald* does in Sydney. (Transcript pp. 191-92)

4.22 The national dailies have a different focus from the metropolitan dailies. Neither of the two national dailies focuses largely on matters of local interest to the individual cities in which they circulate and one of them is a specialist business/financial publication. Essentially, this means that the level of direct competition between the national dailies and other newspapers is limited. The relatively low level of direct competition is reflected by the size of the respective circulations of the metropolitan dailies and national dailies in each of the capital city markets.

4.23 As shown in Table 4.2 at page 94, the circulation of metropolitan daily newspapers far exceeds that of national dailies. For example, *The Sydney Morning Herald* and *The Daily Telegraph Mirror* have average daily circulations of 244 170 and 515 000 respectively. *The Australian*, the larger of the two national dailies, has an average week day national circulation of 118 850 spread across the capital cities and other centres. Of this total circulation, it is estimated that approximately 25 per cent (equivalent to approximately 30 000) is accounted for by Sydney readers. Even if all such copies were sold to readers who purchase *The Australian* exclusively in preference to either of the two Sydney dailies¹, it is clearly evident that the level of competition for readership between the national and the metropolitan dailies is skewed heavily in favour of the metropolitan papers.

¹ It is likely that a proportion of readers of *The Australian* will also purchase at least one of the two dailies.

Table 4.2: Circulation of Metropolitan and National Daily Newspapers for Six Months Ending 31 March 1991

MARKET	NEWSPAPER	DAILY CIRCULATION (Monday/Friday)
Sydney	Sydney Morning Herald (Fairfax)	244 170
	Daily Telegraph/Mirror (News)	515 000 +
Melbourne	Age (Fairfax)	211 714
	Herald-Sun (News)	638 297
Brisbane	Courier-Mail (News)	232 258
	Sun (Management owned) [now closed]	117 707
Adelaide	Advertiser (News)	204 395
	News (Management owned)	112 596
Perth	West Australian (WAN)	242 981
Hobart	Mercury (News)	51 992
Canberra	Canberra Times (Stokes)	44 289
Darwin	NT News (News)	18 135
National	Australian (News)	118 850
	Australian Financial Review (Fairfax)	76 637

+ = in excess of

Source: Audit Bureau of Circulations (1991)

4.24 The situation is similar in other sectors of the print media. Suburban and regional newspapers face little if any direct competition in their primary market areas. To some extent, suburban and regional papers compete indirectly with metropolitan dailies.

4.25 The nature of such competition would be similar but less effective than that between national and metropolitan papers. First, in terms of audience, since most suburban papers are delivered free to all households, are published less frequently (generally weekly rather than daily) and focus on issues of interest to a highly localised audience, they are more complementary to, rather than competitive with, metropolitan dailies. Mr Peter Isaacson, Managing Director and Editor-in-Chief, Peter Isaacson Publications Pty Ltd, said that his newspapers (suburban) deal with parochial issues and supplement the metropolitan press (Transcript pp. 1070-71) and Mr Richard Sinclair, Chief Executive Officer, Regional Dailies of Australia Ltd, said that: 'To sell local (regional) newspapers ... it is best to have local news. The names of the local people in the newspaper is what sells them'. (Transcript p. 812)

4.26 Second, with respect to advertisers, both the frequency of publication and localised distribution of suburban and regional newspapers would limit significantly the level of competition between them and metropolitan dailies.

4.27 Competition between national/metropolitan dailies and magazines is also limited. Although newspapers may offer 'magazine' sections, or deal with similar issues (e.g. *Business Review Weekly* and *The Australian Financial Review*) the focus and level of coverage of the issues

is generally different. The frequency of publication is also different. Furthermore, many magazines are directed at relatively small niche audiences (e.g. *Opera Australia*, *Scuba Diver*). Mr Walsh (ACP) said that: 'Magazines on the whole are closer to books than they are to newspapers ...'. (Transcript p. 1304) With regard to advertising, Mr Max Suich, Editor and Publisher of the *Independent Monthly*, said that: 'In fact, magazines in some ways are more competitive with television than newspapers these days'. (Transcript p. 1275) Consequently, the level of substitutability between the two sectors of the print media is likely to be relatively low.

4.28 Magazines represent perhaps the most competitive sector of the industry. Mr Walsh stated that 'there are in Australia about 3 000 individual magazine titles circulating through the newsagency system, 500 of which are Australian published and 2 500 are imported magazine titles'. (Transcript p. 1295) The level of competition between titles varies. For some large circulation magazines, such as *Woman's Day* and *New Idea*, competition can be substantial. Competition for other titles decreases generally with the level of circulation and focus of the publication. There is also a tendency by publishers to produce an array of similar types of magazines directed at slightly different sectors of the same broad generic market (e.g. *Woman's Day*, *Australian Women's Weekly*, *Dolly*, *Elle*, *Cleo* and *Cosmopolitan* are all published by Australian Consolidated Press). Such magazines from a common publisher are more likely to be complementary to, rather than directly competitive with, each other.

4.29 A noticeable feature of the magazine sector is the almost parallel structure of the popular magazines published by News Limited and Australian Consolidated Press Limited. Both groups, for example, have a

series of popular magazines directed at women. While the large number of magazines would suggest the existence of significant competition between the two groups, in reality the level of competition may not be high.

4.30 The influence of magazines on community opinion is likely to be significant. Some such as *The Bulletin* and *Business Review Weekly* with circulations per issue of approximately 103 000 and 73 000 respectively are likely to have significant influence on their readership. Similarly, the popular women's magazines with circulations per issue in excess of one million copies are also likely to exert significant influence on their readers. The Committee would have liked to examine the role and influence of magazines in detail. However, the information received in this regard was not extensive and thus not conducive to extensive analysis.

4.31 Generally, the level of direct competition within print media appears to be relatively low. Dr Brown referred to competition between newspapers in the same metropolitan area as being 'indirect' and 'at the edges' for suburban and metropolitan newspapers. (Transcript pp. 990 and 1009) Mr Suich was also of the view that competition is limited:

I think Sydney and Melbourne are well served by the individual papers there which are competitive to some extent, but I do not think that they are particularly competitive newspapers. ... The competition in Australia, curiously, is most vigorous between *The Australian* and *The Financial Review*, *The Sydney Morning Herald* and *The Age* in a kind of a national way; elsewhere it is pretty limited. That lack of competition generally sends journalists asleep, which is not surprising. (Transcript p. 1266)

4.32 Mr Gerard Noonan, Editor, *The Australian Financial Review*, had a similar view to Mr Suich:

The Australian is one part of our competition because it is a national paper and it prints in roughly the same structure as we do, but it is differently focused. I regard *The Australian*, *The Herald* and *The Age* as being our main competition, there is considerable - and often very acrimonious - rivalry within the Fairfax group for access to resources. (Transcript pp. 878-79)

4.33 The existence of internal rivalry between commonly owned newspapers was also referred to by Mr Ken Cowley, Chief Executive of News Limited, who argued that vigorous competition exists for news circulation and advertising dollars between all levels of the print media including between the publications produced by News Limited:

As I say, there is competition within the company itself. That should not be taken lightly. It should not be assumed we are just some big cumbersome organisation that is rolling forward in some sort of sophisticated way knocking everybody out of the way. We are not. Each newspaper fights for its own dollars. Each chief executive operates in his own orbit and he reports to me. ... He is out there running his own business and he is out there editing his own papers. (Transcript p. 451)

4.34 While the competition between the various newspapers owned by a group is undoubtedly encouraged, such competition is characterised by collaborative, rather than by unbridled rivalry as it would be against competitors outside the group. In any event, it is unlikely that a corporation would allow such competition to go on if it acted against the corporation's own interests.

4.35 Professor Allan Fels, Chairman of the Trade Practices Commission, in evidence, gave his view on the extent to which divisions within a group compete with each other:

In any analysis of competition you would certainly look at that factor (competition within a group) and take it into account. I do not want to dismiss that point, but the other side of it is that competition is not without its subtleties. People in a market look at the behaviour of their competitors and have a bit of a feel for it. For example, if they want to put up their price, they have to think about the reactions of competitors. In some cases some competitors are very unfriendly or want to fight bitterly for market share. But there are other competitors about whom they do not have to worry so much. I would have thought that on a view of the competitive environment of the economic decisions that someone faces, if you are thinking of putting up your prices in one part of your operation, even if it is competing with another, you would be slightly more relaxed about the extent of price competition that you would face than you would from a completely separate organisation. (Transcript p. 110)

Ownership and Circulation

4.36 As discussed above, when measuring concentration it is important to define the market in which the concentration is measured. In economic terms concentration refers to the extent to which the largest firms in the market control, for example, the means of production or sales in the relevant market. That is, it is a measure of market power. It is usually determined as the ratio of the sales or assets of the largest four companies to the total sales or assets of the industry in the relevant market.

4.37 In terms of the usual measures, it is clearly obvious that, because of the small number of publishers, there is high concentration in the Australian print media industry in all geographic markets.

4.38 Another aspect of concentration is ownership concentration. It generally measures the proportion of an industry owned or controlled by a single firm and is usually measured for the national market as a whole. While national concentration figures are useful in providing an overview of the level of economic control individual owners may have over particular sectors of the print media, they are not good indicators of the level of competition in the industry.

4.39 Various submissions referred to the level of concentration in print media and expressed concern about it. Generally, the interest in concentration focused on its dampening effect on competition and its potential to restrict the diversity of opinion and information conveyed to the public.

4.40 In the absence of the relevant data for the measurement of concentration, the submissions to the Committee generally referred to concentration in terms of titles and circulation. Such measures have also been used overseas. It should be stressed, however, that such measures do not necessarily reflect market shares which are usually measured in terms of sales revenue. This is clearly evident in relation to titles, but it may also be true with respect to circulation. For example, the relative circulation figures for *The Sydney Morning Herald* and *The Daily Telegraph Mirror* do not reflect the shares of advertising revenue earned by them because of the dominance of classified advertisements by *The Sydney Morning Herald*.

4.41 Nonetheless, circulation figures may provide a useful proxy for the measurement of ownership concentration. This is largely justified by the relationship which exists between circulation and advertising generally. The justification, however, is weakest with respect to magazines because of the substantial differences in cover prices and in the degree to which they depend on advertising for their revenue.

4.42 On the basis of these figures, the Australian print media industry generally is highly concentrated. In almost every sector of the industry one or two groups dominate in terms of the number of publications and the related circulation under their control. The highest level of concentration exists in metropolitan/national Sunday newspapers followed closely by metropolitan/national dailies. A lower level of concentration is found in the regional dailies sector. Ownership of the national magazine sector is widely dispersed, but many magazines command only relatively small, specialised, readership. Among the major magazines, however, ownership is highly concentrated within two groups, which account for 90 per cent of the aggregate monthly circulation of the top 30 titles.

4.43 Currently there are 13 metropolitan/national dailies and 11 metropolitan/national Sunday newspapers.² Both of these sectors are dominated by News Limited which publishes seven daily and seven Sunday newspapers. The Fairfax Group publishes three daily and two Sunday newspapers. The other papers are each individually produced by publishers who have no other metropolitan newspaper interests. *The News* in Adelaide and *The Sunday Sun* in Brisbane are owned and published by their senior

² Publication of *The Sun* in Brisbane ceased in December 1991.

Table 4.3: Metropolitan/National Dailies and Sunday Newspapers at 31.3.91

		NEWS	F/FAX	OTHER ¹	TOTAL
MON TO FRI	No. Titles	7	3	4	14
	Average daily Circul'n	1 751 288	532 489	509 660	2 793 437
	% Total Circul'n	62.7	19.1	18.2	100.0
SAT	No. Titles	7	2	2	11
	Circul'n	1 854 929	747 545	421 331	3 023 805
	% Total Circul'n	61.3	24.7	13.9	100.0
SUN	No. Titles	7	2	2	11
	Circul'n	2 106 338	724 154	426 501	3 256 993
	% Total Circul'n	64.7	22.2	13.1	100.0
WEEK -LY	Circul'n	12 717 707	4 134 144	3 396 132	20 247 983
	% Total Circul'n	62.8	20.4	16.8	100.00

Notes: 1. Includes circulation of Brisbane's *The Sun* which closed down in December 1991.

Source: Audit Bureau of Circulations (1991 a)

management but are printed by News Limited. The contractual arrangements for the printing of those newspapers were initially developed in response to divestiture requirements by the Trade Practices Commission following the takeover of the Herald and Weekly Times group by News Limited³. In terms of circulation, News Limited directly controls 62.8 per cent of the total metropolitan/national dailies and Sunday newspaper circulation (62.7 per cent of the Monday to Friday circulation of metropolitan/national daily newspapers). Details are provided in Table 4.3 at page 102.

4.44 In terms of titles, suburban newspapers make up a relatively prolific sector of the industry. At least 130 titles are published regularly.⁴ Most are published weekly. Of the others, some are published twice or more each week and some less frequently than once a week. In addition some titles are published as separate editions for different suburbs but with a considerable amount of common editorial and advertising content. It is very difficult, therefore, to derive the accurate number of separate publications. Generally, these papers are distributed to households free of charge (a few are sold), they focus on local issues of interest to the community within the distribution area and are financed from the sale of advertising. News Limited publishes 72 suburban newspapers in Sydney, Melbourne, Brisbane, and Adelaide. (Submissions p. 342) The concentration of circulation varies considerably from state to state. See Table 4.4 at page 104 for details.

³ Brisbane's *The Sun* was similarly published as part of these arrangements until its closure in December 1991. The circulation figures relate to the period before the closure of *The Sun*.

⁴ The exact total number is unknown. The number quoted refers to the number of suburban newspaper entries in the Circulations Audit Board audit for the period October 1, 1990 to March 31, 1991. The circulation of some suburban newspapers is not audited.

**Table 4.4: Average Weekly Circulation of Suburban Newspapers
(October 1990 to March 1991)**

	NEWS	FAIRFAX	WAN	EASTERN SUBURBS (NSW)/ ISAACSON (VIC)	RURAL PRESS	OTHER
NSW circulation percentage	1 549 172 47.7	770 150 23.7	- -	174 967 5.4	62 470 1.9	691 798 21.3
VIC circulation percentage	1 042 885 41.4	293 789 11.7	- -	97 292 3.9	- -	1 087 018 43.1
QLD circulation percentage	378 673 54.6	- -	- -	- -	83 731 12.1	231 170 33.3
SA circulation percentage	446 917 100.0	- -	- -	- -	- -	- -
WA circulation percentage	- -	- -	442 200 100.0	- -	- -	- -
TAS circulation percentage	- -	- -	- -	- -	- -	88 149 100.0
ACT circulation percentage	- -	- -	- -	- -	- -	127 177 100.0
AUSTRALIA circulation percentage	3 417 647 45.2	1 063 939 14.1	442 200 5.8	272 259 3.6	146 201 1.9	2 225 312 29.4

WAN - West Australian Newspapers Ltd

EASTERN SUBURBS - Eastern Suburbs Newspapers - 50/50 Hannan Family and Brehmer Fairfax Pty Ltd (J.B. Fairfax)

ISAACSON - Peter Isaacson Publications Pty Ltd

Source: Circulations Audit Board (1991)

4.45 The regional dailies sector is made up of at least 36 publications with a total weekly circulation of 3 834 062.⁵ Most (29) are published 6 days each week; the others on 5 days each week (Monday to Friday or Tuesday to Saturday). Relative to other sectors, ownership is dispersed. The largest group, Australian Provincial Newspapers (owned by interests associated with Dr O'Reilly), controls 12 of these titles with an aggregate weekly circulation of 1 089 263 equivalent to 28.4 per cent of the total circulation. Further details are provided in Table 4.5 at page 106.

4.46 The national magazines sector comprises a relatively large number of titles produced or controlled by a diverse group of owners. Many of the magazines appeal to a small specialised readership (or niche market) and have relatively small circulations. Ownership of the major magazines with substantial circulation, however, is highly concentrated. The largest group is owned by Australian Consolidated Press Limited. Of the top 30 magazines, ACP owns 13 outright and has a half share in *TV Week* which it owns jointly with News Limited. In terms of circulation ACP controls 52.3 per cent of the aggregate monthly circulation of the top 30 magazines. News Limited, with six fully owned magazines and two jointly owned with other groups controls 37.7 per cent of the aggregate monthly circulation of the top 30 magazines. Further details are provided in Table 4.6 at pages 107 and 108.

⁵ These refer to the number of titles and circulation audited by the Audit Bureau of Circulations.

**Table 4.5: Average Weekly Circulation of Regional Daily Newspapers
(October 1990 to March 1991)**

	NSW	VIC	QLD	WA/TAS	AUSTRALIA
NEWS circulation percentage	- -	293 862 48.0	569 970 38.4	- -	863 832 22.5
FAIRFAX circulation percentage	526 650 40.7	123 532 20.2	- -	- -	650 182 17.0
APN circulation percentage	225 390 17.4	- -	863 873 58.3	- -	1 089 263 28.4
RURAL PRESS circulation percentage	110 256 8.5	- -	27 860 1.9	235 794 (TAS)	373 910 9.8
WAN circulation percentage	- -	- -	- -	47 982 (WA)	47 982 1.3
OTHER circulation percentage	305 472 23.6	194 418 31.8	- -	161 046 (TAS)	685 841 17.9
MACQ circulation percentage	126 782 9.8	- -	21 175 1.4	- -	123 052 3.2
TOTAL	1 294 550	611 812	1 482 878	444 822	3 834 062

APN = Australian Provincial Newspapers
 WAN = West Australian Newspapers
 MACQ = Macquarie Publications

Source: Audit Bureau of Circulations (1991)

Table 4.6: Major National Magazines in Top 30 Monthly Circulation

OWNER	MAGAZINE	AVERAGE PER ISSUE CIRCULATION	AVERAGE MONTHLY CIRCULATION ¹
ACP	Women's Day (W)	1 013 066	4 389 953
	Australian Women's Weekly (M)	1 202 586	1 202 586
	People (W)	215 000+	931 667+
	Bulletin (W)	102 773	445 350
	Picture (W)	101 200+	438 553+
	Cleo (M)	292 166	292 166
	Cosmopolitan (M)	277 979	277 979
	Australian Business (W)	48 700	211 033+
	Dolly (M)	184 076	184 076
	Australian House & Garden (M)	122 394	122 394
	Elle (M)	64 100	64 100+
	Wheels (M)	61 394	61 394
Unique Cars (M)	57 000+	57 000+	
	TV Week (Jointly owned with News Ltd) ¹	701 545	1 520 447
TOTAL ACP CIRCULATION			10 198 698 (52.3%)
NEWS LIMITED	New Idea (W)	1 003 233	4 347 343
	Australasian Post (W)	157 352	681 859
	Australian Family Circle (M)	341 145	341 145
	New Woman (M)	135 168	135 168
	Australian Home Beautiful (M)	120 791	120 791
	Your Garden (M)	79 235	79 235
	TV Week (jointly owned with ACP) ² (W)	701 545	1 520 447
	Better Homes & Gardens (jointly owned with Meredith) ² (M)	228 435	114 217
TOTAL NEWS LIMITED CIRCULATION			7 340 205 (37.7%)

Table 4.6 (Cont'd): Major National Magazines in Top 30 Monthly Circulation

OWNER	MAGAZINE	AVERAGE PER ISSUE CIRCULATION	AVERAGE MONTHLY CIRCULATION¹
FAIRFAX	Business Review Weekly (W)	73 412	318 119
	Personal Investment Monthly (M)	60 042	60 042
TOTAL FAIRFAX CIRCULATION			378 161 (1.9%)
OTHERS	Readers Digest (M)	475 813	475 813
	Time (Australian Edition) (W)	105 000+	455 000+
	Smash Hits (F)	78 021	169 046
	Australian Penthouse (M)	126 110	126 110
	TV Hits (M)	101 747	101 747
	Hit Songwords (M)	65 867	65 867
	Vogue Australia (M)	61 100	61 100
	Better Homes and Gardens (jointly owned with News Ltd) ²	228 435	114 217
TOTAL OTHER CIRCULATION			1 568 900 (8.1%)
TOTAL TOP 30 CIRCULATION			19 485 964 (100.0%)

Notes: + = in excess of
(W) = Weekly
(M) = Monthly
(F) = Fortnightly

1. Weekly and Fortnightly circulations have been converted to monthly by multiplying by the appropriate factor (52/12 for weekly and 26/12 for fortnightly).
2. Half of circulation assigned to each of the joint owners.