

Chapter 1

In old days men had the rack. Now they have the Press. That is an improvement certainly. But still it is very bad, and wrong, and demoralizing. Somebody—was it Burke?—called journalism the fourth estate. That was true at the time no doubt. But at the present moment it is the only estate. It has eaten up the other three. The Lords Temporal say nothing, the Lords Spiritual have nothing to say, and the House of Commons has nothing to say and says it. We are dominated by Journalism.

—Oscar Wilde

This bill does nothing towards ending democracy and it is a relatively minor imposition on press freedom and probably no restriction on free speech.

—The Hon Ray Finkelstein QC

Introduction

1.1 On 14 March 2013, the Senate Environment and Communications Legislation Committee was referred the provisions of the following six bills:

- the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013;
- the Broadcasting Legislation Amendment (News Media Diversity) Bill 2013;
- the Television Licence Fees Amendment Bill 2013;
- the News Media (Self-regulation) Bill 2013;
- the News Media (Self-regulation) (Consequential Amendments) Bill 2013; and
- the Public Interest Media Advocate Bill 2013.¹

1.2 The provisions of the bills were referred on the recommendation of the Senate Selection of Bills Committee.² The Selection of Bills report was amended in the Chamber to set a reporting date of 17 June 2013.³

1.3 The committee held two public hearings in Canberra on 18 and 19 March (a list of witnesses is at Appendix 1).

1.4 The committee sincerely thanks all of those witnesses who made themselves available to appear at the public hearings.

1 *Journals of the Senate*, No. 139, 14 March 2013, pp 3758–3759.

2 Senate Selection of Bills Committee, *Report No. 3 of 2013*, p. 3, available, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=selection_bills_ctte/reports/2013/rep0313.htm (accessed 14 March 2013).

3 *Journals of the Senate*, No. 139, 14 March 2013, p. 3759.

Context of the inquiry

Independent inquiry into the Australian media

1.5 On 14 September 2011, the Commonwealth government established an independent inquiry into the Australia media (also known as the Finkelstein Review).⁴ The inquiry was led by former Justice of the Federal Court of Australia, The Hon Ray Finkelstein QC.

1.6 The terms of reference required the inquiry to examine the effectiveness of current media codes of practice in Australia, the impact of technological change on the traditional media business model and ways of substantially strengthening the independence of the Australian Press Council and any related issues.⁵

1.7 The inquiry reported to the government on 28 February 2012. The *Report of the Independent Inquiry into the Media and Regulation* was publicly released on 2 March 2012.⁶

1.8 The government forwarded the inquiry's report to the Convergence Review Committee for its consideration.⁷

Convergence Review

1.9 On 14 December 2010 the Commonwealth government announced an independent review into the policy and regulatory frameworks that apply to the converged media and communications landscape in Australia.⁸

1.10 The Convergence Review Committee was chaired by Mr Glen Boreham, with Mr Malcolm Long and Ms Louise McElvogue as committee members. The committee handed its final report to the government on 30 March 2012.⁹

4 Department of Broadband, Communications and the Digital Economy website, 'Independent Media Inquiry', http://www.dbcde.gov.au/digital_economy/independent_media_inquiry (accessed 15 March 2013).

5 Department of Broadband, Communications and the Digital Economy website, 'Independent Media Inquiry', http://www.dbcde.gov.au/digital_economy/independent_media_inquiry (accessed 15 March 2013).

6 The Hon R Finkelstein QC, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, available at: http://www.archive.dbcde.gov.au/_data/assets/pdf_file/0006/146994/Report-of-the-Independent-Inquiry-into-the-Media-and-Media-Regulation-web.pdf (accessed 15 March 2013).

7 Department of Broadband, Communications and the Digital Economy website, 'Independent Media Inquiry', http://www.dbcde.gov.au/digital_economy/independent_media_inquiry (accessed 15 March 2013).

8 Department of Broadband, Communications and the Digital Economy website, 'Convergence Review', http://www.dbcde.gov.au/digital_economy/convergence_review (accessed 15 March 2013).

Commonwealth government response

1.11 On 30 November 2012 the government announced a package of measures as part of its initial response to the Convergence Review.¹⁰

1.12 On 12 March 2013, the Minister for Broadband, Communications and the Digital Economy announced that new legislation would be introduced to Parliament to implement media reforms.¹¹ On 14 March 2013, a package of six bills was introduced.

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- 9 Department of Broadband, Communications and the Digital Economy, *Convergence Review Final Report*, March 2012, available at: http://www.dbcde.gov.au/_data/assets/pdf_file/0007/147733/Convergence_Review_Final_Report.pdf (accessed 15 March 2013).
- 10 Senator the Hon Stephen Conroy, Minister for Communications, Broadband and the Digital Economy, 'Government moves to ensure quality Australian content stays on Australian television', Media release, 30 November 2012, available at: http://www.minister.dbcde.gov.au/media/media_releases/2012/193 (accessed 15 March 2013).
- 11 Senator the Hon Stephen Conroy, Minister for Communications, Broadband and the Digital Economy, 'Government response to Convergence Review and Finkelstein Inquiry', Media release, 12 March 2012, available at: http://www.minister.dbcde.gov.au/media/media_releases/2012/193 (accessed 15 March 2013).

