



Peter Andren M.P.
Federal Member for Calare

25 September 2006

The Secretary
Senate Environment, Communications, Information Technology
and the Arts Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

To the Secretary,

RE: INQUIRY INTO THE BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2006 & RELATED BILLS

Please accept this letter as my submission to the Senate's Environment Communications, Information Technology and the Arts Committee inquiry into the *Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills*.

My comments focus on the *Broadcasting Services (Media Ownership) Bill 2006*, and in particular to those sections pertaining to media ownership and local content rules. I am primarily concerned about the impact of the proposed changes on the diversity of editorial opinion in this country, and especially in regional and rural Australia.

The Minister's introductory speech states:

New platforms are emerging, along with new forms of content and greater levels of interactivity. Media content is now available in multiple forms, on demand, and to fixed or mobile receivers, providing Australians with an unprecedented level of choice and control in their media usage.

Despite this proliferation of services and platforms, the need to ensure the diversity of media ownership remains fundamental. Ensuring a variety of content, particularly in regional communities with less access to a diverse range of media than in metropolitan areas is a key priority for the government. ... The Government, in committing to reform Australia's media ownership laws at the 2004 election, indicated it would do so while protecting media diversity.

I agree with the Minister that an increase in the means by which news is delivered does not negate the need to protect media diversity. More ways to get your news does not necessarily mean it is coming from different *sources*.

The maintenance of the current cross media ownership regime is as relevant now as it always has been.

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Media Ownership & Control

Foreign Ownership

Item 4 of Schedule 2 of the *Broadcasting Services Amendment (Media Ownership) Bill 2006* repeals Division 4 of Part 5 of the *Broadcasting Services Act 1992* (the BSA), which limits foreign ownership of Australian media. Under 57(1) and 57(3), no one 'foreign person' can hold a controlling share in a commercial television licence, and "2 or more foreign persons must not have company interests in a commercial television broadcasting licensee that exceed 20%".

The removal of this legislated limitation determines that whether or not, and how much, 'foreign persons' or entities can invest in Australian media will be appraised by the Foreign Investment Review Board, but will be the sole decision of the Treasurer.

I am concerned that the repeal of this limitation has the potential to have a negative impact on the production and broadcasting of Australian content, and the independence of Australian news and current affairs.

Cross-Media Ownership

Under part 5, Division 5 – Cross-media rules of the BSA, section 60 determines that a person must not be in a position to "exercise control of" a commercial television licence and a commercial radio licence, or a commercial television licence and a newspaper, or a commercial radio licence and a newspaper, in the same licence area.

This is the basis of our cross-media ownership regime, and reasonably ensures diversity of the sources of a community's news.

Item 6 of the *Broadcasting Services Amendment (Media Ownership) Bills 2006* repeals sections 60 and 61 of this division, removing all cross media restrictions based on what it considers to be a minimum number of media operators sufficient to maintain competition and therefore, editorial diversity.

New Division 5A – Media Diversity, specifically section 61AB, provides for the government's measures to ensure media diversity. Under s61AB, in metropolitan markets there must be a minimum of five operators to remove cross-media restrictions and in regional markets, four operators.

My concern is that, in a regional market where there are currently more than four operators, we will see a consolidation of the number of operators to the minimum, consolidating market power and control of advertising revenue. This will result in a concentration of editorial opinion rather than diversification, and close off these regional markets to new players.

In a regional market where the advertising revenue pool is a relatively finite resource, new players will not be attracted where the likelihood of securing a profitable slice of this all important resource is slim.

In its report *Content, Consolidation and Clout: How will regional Australia be affected by media ownership changes*, the Communications Law Centre also concludes, as I do, that consolidation of the number of media players in regional markets would be the likely result of the removal of cross-media rules under the minimum players test.

The report looked at the state of play in four case studies: Wollongong, Townsville, Launceston and Toowoomba. In each of these case studies, the report found a reduction of the number of media operators to the minimum four players to be the most likely result in these regional media markets.

This is at odds with the assertion in the *Meeting the Digital Challenge* discussion paper that the “scope for wide scale mergers would be necessarily limited” in regional markets and that cross-media transactions “would only be able to occur if media groups already present in a regional licence area divest television or radio licences or newspapers to owners not already operating there, thereby increasing the number of separately controlled media entities in those markets above the minimum number ... for a merger to be permitted.” An example is given of a regional market with four media groups, one of which controls two radio licences and sells one of these to a new entrant bringing the number of operators to five, making a new merger possible.

I believe this type of scenario is neutral as far as competition and diversity are concerned, rather than bringing the economic benefits of scale and scope, whilst “protecting the public interest in maintaining diversity”.

Impact in Calare

In Orange, NSW, in the centre of the Calare electorate, there are currently 6 media operators with Macquarie Bank’s Regional Radioworks controlling two radio stations – Star-FM and 2GZ, the Central Western Daily newspaper owned by Rural Press, Easy Listening Ten-89 owned by AMI Radio Pty Ltd, and three television networks: PRIME, WIN and Southern Cross Broadcasting TEN.

Under the proposed minimum players test in Orange, these 6 would more than likely be reduced to the minimum four, especially as Macquarie Bank is already involved in the Orange media market and is seen as a company likely to take advantage of the removal of cross media ownership rules, having already made a ‘conditional offer’ to buy WIN Corporation in 2005.¹

Likewise it is not inconceivable that Rural Press could purchase, in Orange or other rural markets, any combination of radio and TV to enable a powerful concentration of editorial influence, while still meeting the minimum player test.

¹ *Content Consolidation and Clout: How will regional Australia be affected by media ownership changes?*, Communications Law Centre 2006, Melbourne Victoria; pp 63-66.

Local Content

Schedule 2 of the *Broadcasting Services Amendment (Media Ownership) Bill 2006* also provides for minimum levels of local content conditions for regional television and radio licences.

New section 43A legislates the requirement that the Australian Communication and Media Authority (ACMA) impose regional television broadcasting licence conditions that ensure a minimum level of 'material of local significance' is broadcast.

New Division 5C provides a similar minimum for local news and information for regional commercial radio broadcasting, including community and emergency announcements in addition to news and weather bulletins.

Whilst Division 5C actually provides the minimum benchmarks of local content for regional radio in the bill, section 43A provides only that ACMA determines the specifics of the local content licence conditions for television broadcasters. Providing for the minimum local content requirements for regional television broadcasting licences in legislation, as with regional radio licence, would serve to offer stronger protection for local content in regional media markets into the future.

Any subsequent changes to these benchmarks would then have to be made either through regulation or amendment to the *Broadcasting Services Act 1992*, and would thus provide the parliament, especially those MPs representing regional and rural electorate, with the opportunity to debate and amend any such proposal in the best interests of their constituents.

Conclusion

As a former regional television and radio news editor, I am well aware of the impossibility of regulating against standardised editorial policy across different media by single owners.

However, under the reforms contained in the *Broadcasting Services Amendment (Media Ownership) Bill 2006*, the diversity of opinion in Australia's media is more likely to be undermined, with the natural tendency of the market towards consolidation, than protected. The current regime of cross media ownership conclusions remains the best approach to ensure a healthy level of editorial diversity in this country.

Yours sincerely,



PETER ANDREN
Federal Member for Calare