

1.7 MEDIA DIVERSITY AND MEASUREMENT

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The Australian Communications and Media Authority (ACMA) administers media control, diversity, localism and foreign ownership rules in the *Broadcasting Services Act 1992* (the BSA). Following our consultation on a proposed news measurement framework to monitor levels of diversity across the contemporary Australian media environment, we have provided advice to the Minister for Communications, the Hon Michelle Rowland MP (the Minister) on the outcomes of that process for the government's consideration.

KEY ISSUES

Measuring media diversity

- The current media diversity and ownership rules, set out in the BSA and administered by the ACMA, are based on the concept of control, and place limits on who can control traditionally influential forms of media – associated newspapers, commercial TV and commercial radio broadcasting licences. The rules do not apply to online media sources.
- In 2020, the ACMA released a research paper that proposed the development of a 'news measurement framework to measure levels of diversity and localism across the contemporary Australian news media landscape – both online and offline'.
- Work on this project was temporarily paused in 2020 due to a reprioritisation of activities in response to the COVID-19 pandemic. In late 2022, the government requested that the ACMA recommence this project to help build a more accurate and nuanced understanding of the media diversity landscape across the country.
- On 18 January 2023, the ACMA released a short consultation paper on the draft framework. The paper provided an overview of relevant market and regulatory developments since 2020 and sought feedback on the framework and potential new sources of research and data.
- The consultation period closed 17 March 2023. Of the 23 submissions received, 18 were from industry groups, 4 were from academics and one from Independent MP, Ms Zoe Daniel.
- The ACMA also conducted 3 roundtables during the consultation period; 2 with industry and 1 with researchers and subject-matter experts. Stakeholder submissions and the summaries of the roundtable discussions are available on the ACMA's website.
- Stakeholders were broadly supportive of the framework, but opinions varied on the scope, methodologies, potential gaps, and research priorities. Several submitters such as Free TV consider the framework needs clearer objectives and stronger statement of intent for its use and application, including linkages to the Government's News Media Assistance Program (News MAP).
- Some submitters including the Public Interest Journalism Initiative (PIJI) and the Media, Entertainment and Arts Alliance (MEAA) agreed with the scope being limited to 'professional' news sources while others such as Local & Independent News Association (LINA) and Community Broadcasting Association of Australia (CBAA) expressed concern this would distort our understanding of the overall news ecosystem. Submissions identified culturally and linguistically diverse news supply and consumption as a key knowledge gap.
- The ACMA provided advice to the Minister, on the draft framework and its potential implementation in late August 2023. The government is currently considering this advice in the context of its broader News MAP initiative.

BACKGROUND

News measurement framework

- The proposed news measurement framework identified 6 key measures that are important in supporting a robust examination of diversity and localism across the Australian news media market:
 - diversity measures include source diversity (a diverse range of media sources and voices), content diversity (a diverse range of information and viewpoints), and consumption diversity (a diverse range of consumption habits across the community)
 - localism measures include connection (news specifically relating to a locality), originality (unique news stories) and civic journalism (news of public significance).
- In addition to these key measures, the 2020 research paper also outlined 8 indicators of market performance:
 - availability of sources; availability of journalists; number of owners; range of topics; range of viewpoints; local relevance; consumption; and impact
 - monitoring these indicators over time could provide academics and policymakers with a greater understanding of changes in the Australian news media market.
- This framework built on similar news measurement approaches adopted internationally and was informed by consultation with leading researchers and subject-matter experts, both in Australia and abroad.
- Since the release of the 2020 research paper, there have been new market developments, policy interventions and sources of relevant research and data. This includes the work of the PIJI to monitor and visualise changes in the Australian news market, including the publication of an online map that tracks changes in news production.
- As part of her 14 November 2022 speech on media law priorities for government, the Minister announced that the ACMA would consult on the implementation of a news measurement framework in early 2023. This announcement was accompanied by a media release.
- In January 2023 the ACMA released its consultation paper on the draft framework seeking stakeholder feedback on scope and feasibility and whether there were new sources of data or research that would be relevant to the project.
- The News MAP is a separate but related government initiative to secure the evidence base needed to inform long-term policy interventions and develop measures that support public interest journalism and media diversity. This program of work is being led by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
- The ACMA's work on the news measurement framework is expected to inform development of the News MAP.

Current media diversity rules

- The level of media diversity in a market (which equates to a commercial radio licence area) is determined by the number of media diversity 'points' in that market. A point equates to a single media 'voice' being either an independently held media operation or a group of media operations that have a common controller.
- Under the BSA, an unacceptable media diversity situation is said to exist in a commercial radio licence area that has less than a minimum number of media diversity points.

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- The rules prohibit media transactions that would result in fewer than 5 independent media operators in a metropolitan area or 4 independent media voices in a regional area.
- The statutory control rules require that a person is not in a position to exercise control of:
 - more than one commercial television broadcasting licence in the same licence area (the 'one-to-a-market' television rule)
 - more than 2 commercial radio broadcasting licences in the same licence area (the '2-to-a-market' radio rule).

Definitions

- A 'media operation' includes a commercial television broadcasting licence, a commercial radio broadcasting licence or an associated newspaper.
- A 'media group' is a group of two or more media operations in the same commercial radio licence area.

Concept of 'control'

- Control is intended to cover various formal and informal arrangements, including trusts, agreements, understandings and practices under which a person comes to be in a position to exercise control over a commercial broadcasting service licence, an associated newspaper or a company.
- Under the BSA, a person is deemed to be in a position to exercise control where they hold company interests in excess of 15% (deemed control).
- A person may also be in a position to exercise control through means other than holding company interests ('factual control'). Examples of factual control include where a person, either alone or together with an associate, is in a position to:
 - exercise control of the selection or provision of a significant proportion of the programs broadcast by the licensee; or
 - exercise control of a significant proportion of the operations of the licensee in providing broadcasting services under the licence; or
 - veto any action by the board of directors of the licensee or company; or
 - exercise direction or restraint over any substantial issue affecting the management or affairs of the licensee or company.

Prior approvals

- The ACMA has the discretion to approve temporary breaches of the media control rules and transactions that result in breaches of the media diversity rules. These approvals are for specified periods and must be sought from the ACMA before a transaction takes place.
- A prior approval period specified by the ACMA must be for at least one month but not longer than 2 years.
- The ACMA is required to maintain a public register of approvals granted in relation to breaches of the media control rules.

Inquiry into media diversity, independence and reliability in Australia and the ACMA submission

- On 11 November 2020, the Senate referred an inquiry into the state of media diversity, independence and reliability in Australia to the Senate Environment and Communications References Committee.

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- The ACMA made a submission outlining its functions of most relevance to the inquiry:
 - administering and enforcing media control, localism and diversity obligations established in legislation and associated instruments
 - collecting data and undertaking research to inform itself and government on trends in the media market, such as research into new ways to measure and assess diversity in news and opinion and the availability of local news in a changed environment ('news measurement framework')
 - undertaking additional roles and functions as requested by government, including administration of the Regional and Small Publishers Innovation Fund since 2018.
- The ACMA appeared before the Committee on 6 September 2021. The ACMA was asked about its complaints process and, in particular, about its response to complaints that Sky News Australia (broadcast on Foxtel and on regional commercial television services) aired inaccurate statements about the COVID-19 virus and the efficacy of vaccines.
- The Committee released its final report on 9 December 2021, which included a recommendation for a judicial inquiry into whether the existing system of media regulation is fit-for-purpose and to investigate the concentration of media ownership in Australia.
- In June 2022, the Minister indicated that the government's view is that a Royal Commission is not warranted. However, the Minister also said that it is important to continue to monitor the status of media concentration, not for its own sake, but to identify areas in Australia, particularly in suburban and regional areas, that risk becoming news deserts.

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