

In the Shadow of Phone Hacking: Media Accountability Inquiries in Australia

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Figure 1. Stalin, Mao, Castro, Conroy—media dictators Murdoch style

Introduction

On July 10, 2011, Rupert Murdoch closed the *News of the World*, one of the biggest selling tabloids on the globe, once the newspaper had used up its store of public trust. The paper was accused of, and later admitted that a culture of illegality had engulfed its newsroom. Phones were routinely hacked and journalists paid public officials for information on celebrities and other citizens. The *News of the World* scandal triggered over 100 arrests of journalists, police officers, private investigators, and public officials. It also initiated a wave of inquiries into journalistic practices and standards in several countries.

This article will summarize the two inquiries into media practice and standards in Australia, and consider the impact on democratic discourse when ownership concentration of media companies reaches high levels.

Background

When the *News of the World* scandal unfolded, Australia was already reviewing its future media landscape. The inquiry charged with the task was the Convergence Review whose terms of reference went well beyond an inquiry into media content and practice standards. Its remit covered regulation of the digital broadcast spectrum, the online environment, and locally produced content for broadcasters. The review did not cover the newspaper companies or their online news sites.

In the wake of the *News of the World* debacle, calls were made for an inquiry into the journalistic practices and standards of the press in Australia. This was partly motivated by a breakdown of trust and respect between the current minority Labor federal government and the Murdoch press. The nationwide broadsheet newspaper *The Australian* was singled out, along with the Sydney-based *Daily Telegraph*. Both had conducted a prolonged campaign against the federal government in general and against its carbon emissions pricing policy in particular. The reporting was reminiscent of similar campaigns conducted by the Murdoch press in the United Kingdom and the United States. In this regard, McKnight (2012) has clearly demonstrated via content analysis of both editorials and news articles that News Corp. and News International used their stable of media companies to back the side of politics that best served their commercial interests.

There is a strong argument to be made, backed up by multiple studies, that the News Limited publications in Australia turned journalism into ‘just another business’ (Schultz, 1994). This broke the press–readership contract of editorial independence upon which the journalistic business model rests (Manne, 2011; McKnight, 2012).

The current Australian media regulation system put in place to regulate ethical transgressions by the press or broadcasters is complex, fragmented, and not user friendly. It is a mish mash of self-regulation for the old newspaper companies, some other print publications, and associated online operations via the Australian Press Council. There is a co-regulation system for the broadcast sector where industry codes are drawn up in consultation with government regulator the Australian Communication and Media Authority (ACMA), which has a statutory base. A little known Media Ethics Panel run by the journalism union (the MEAA) and the Australian Consumer and Competition Commission complements the system. There is plenty of criticism of the regime.

Breit has questioned whether the current system delivers media accountability that will match the demands of the “knowledge society” (2008, p. 506). Pearson suggests that reforms to the Australian systems are needed (2011, p. 429). In its annual reports, over several years, the Australian Press Council (APC) has pointed out that changes are necessary (APC, 2010). In its submission to the inquiry into newspaper media ethics regulation, it recommended a one stop shop to handle ethical grievances against all Australian media regardless of format (Disney, 2012). These are but a few examples of the need for reform. There are several more. Most of these calls come from independent researchers and observers whereas the media proprietors drive the argument for the status quo, as we shall see.

Expectations were high (from many observers and researchers), when in November 2011 the Independent Media Inquiry (IMI), led by the retired judge Ray Finkelstein was set-up. Its terms of reference were to examine regulatory regimes and business models for the news media in the light of technological change (DBCDE, 2011b). In the IMI issues paper, media industry stakeholders were asked, among other things, to reflect on the ethical standards of journalists and journalism in Australia. In particular, the Issues Paper asked if current regulations were adequate to ‘fulfill their goals’ (DBCDE, 2011a). The media industry submissions to the IMI and Convergence Review

(CR) provided a large set of qualitative data describing the attitudes to media accountability and public trust held by media proprietors and other key players¹. Based on the IMI and CR issue papers, a number of categories (key issues) were identified.

Table 1 lists the categories drawn from the IMI and CR documents. Keywords were also identified based upon the discussion papers.

Table 1. Categories and keywords

Category (as defined by the issue papers)	Keywords
ACCESS CHANGE OR ACCESS NO CHANGE This refers to audience access to editors and news decision makers in terms of clarifications, right of reply and possible corrections of misreporting. The content analysis captured if the submissions displayed a need for increased audience access OR if they thought the current system was sufficient.	Response, fair, comment
REGULATION CHANGE OR REGULATION NO CHANGE This category captured the attitudes toward media regulations.	Australian Press Council, toothless, sufficient, confidence, APC
STANDARDS CHANGE OR STANDARDS NO CHANGE This parameter mapped the attitudes held regarding journalistic standards in reportage.	Trust, accountability, public, quality, content, best practice
SUPPORT NEEDED OR SUPPORT NOT NEEDED This captured thoughts on the need, or no need, for government supporting new media ventures to increase diversity.	Market, business model

(Lidberg, 2012, p. 76)

In total, 33 media industry submissions² to the two reviews were imported into NVivo. Using content analysis, the data was interrogated based on the keywords listed in Table 1 above. Of the 33 submissions, only five³ (15%), mentioned or discussed the issues of media accountability and public trust in journalism. The main findings can be summarized thus:

All the “old media” companies such as News Limited [the Murdoch company], the commercial broadcasters, Fairfax Media and the publishers’ associations conveyed the view that the current system was sufficient and that more or reformed regulation was not needed. If anything, the mainstream media companies wanted less regulation. (Lidberg, 2012, p. 76)

The state of denial regarding public trust among the old media companies is well illustrated by Bob Cronin, Group Editor in Chief at Seven West Media, in his testimony to one of the IMI hearings:

I would also like to address some of the errors of fact and erroneous assumptions that have been bandied about. One of these, put forward as far as I can see without a scintilla of evidence, is that journalists routinely are inaccurate and biased, they lack integrity and ignore accepted press principles. (Finkelstein, 2012, p. 109)

In Section 4, the IMI report lists and refers to a large number of studies and surveys into public trust in media that thoroughly disproves Cronin’s preceding statement above. Section 4 concludes:

There is considerable evidence that Australians have a low level of trust in the media as an institution and in journalists as a professional group. The instances and accusations of journalistic failures described above (and this is but a small sample) help explain this lack of trust. However, levels of trust in different media organisations and different types of media vary. The most trusted by far is the ABC [the public broadcaster], and it enjoys high levels of public trust. Newspapers, by contrast, attract comparatively low levels of trust. These trends have been consistent over many decades. The APC, which the newspaper industry established to oversee standards, has been in existence for the best part of four decades. (Finkelstein, 2012, p. 123)

The content analysis also found that 84% of the submissions defended the current Australian self-regulation system for print and online media. The study revealed that the last categories—ACCESS and SUPPORT, followed a similar divide as the other categories. The findings section of the study concluded:

The old media companies thought the current level of access to media in terms of, for instance, right of reply was adequate and in terms of support they pointed out in their submissions that the market is the best regulatory mechanism for who survives as a media company. They saw no democratic reason for supporting new publishers with a non-profit and public interest profile. (Lidberg, 2012, p. 80)

The IMI report (also called the Finkelstein report) was published at the end of February 2012. At its heart was a recommendation for a new, statutory based, one stop shop media complaints system named the News Media Council. The reaction from media companies and pundits was swift.

Reactions to the Media Inquiry

To say that the Independent Media Inquiry met with universal hostility and condemnation from most quarters of the Australian mainstream media and the blogosphere would not be an exaggeration. Almost nobody was prepared to sign up to the suggestions made in the Finkelstein report. Critics said that the flaws in the report were ‘glaring’ and that its justifications for establishing new regulatory requirements for the news media were “flimsy at best” (Fernandez, 2012, para. 2). Across the mainstream media there was no support for the News Media Council and, at best, lukewarm endorsement of the Finkelstein Report. However, it was the Murdoch press in Australia—*The Australian*, the Melbourne *Herald-Sun*, and Sydney’s *Daily Telegraph* that were especially vitriolic and defensive about both the inquiry itself and the recommendations proposed by Finkelstein. The Australian CEO of News Limited, Kim Williams, was given ample space in the pages of the Murdoch press to vent his anger at Finkelstein and the government. Williams warned in March 2012 of the “spectre of government control” (Meade & Canning, 2012). His comments were given prominence, and the Murdoch newspapers were clearly taking an editorial line that was consistent with the business aims of News Limited. Promises by the conservative opposition parties to scrap any media laws if they won the 2013 election were applauded in news articles and editorials. In March 2013, Williams was again featured in News Limited coverage of proposed legislation resulting from the Finkelstein and Convergence Reviews. He referred to the regulations as “government-sanctioned journalism” (Davidson, 2013, pp. 1, 4).

No doubt the News Limited fears about creeping regulation and attendant limits on the Murdoch papers to exercise their ‘freedom’ of the press were a motivating factor in how the company reacted

to Finkelstein and then, later, to the Convergence Review when its report was released in May 2012. The Convergence Review watered down Finkelstein's recommendations even further, and rejected any idea that there should be government-mandated regulation of the supposedly 'self' regulating news media (Hirst, 2012a).

However, News Limited has a virtual stranglehold on the Australian newspaper market and in the view of its senior staff, any change—either to regulation of journalism, or of the business interests of the news industry would not be tolerated. The company put all of its news assets at the disposal of a campaign to derail any attempt at media reform. Estimates vary, depending on the measures used, but there is general agreement that Murdoch's newspapers are dominant in Australia's major population centers. At the upper end, critics argue that the News Limited monopoly covers almost 70% of the newspaper market in Australia. Murdoch's allies acknowledge a strong market share, but would dispute the 70% figure. No one disputes that News Limited papers comprise well over 50% of the market in capital cities. Murdoch also owns the Sky News network and a lion's share of the Foxtel pay-TV platform in Australia.

The Australian has only a small circulation—130,000 (average daily sales) in a population of 23 million, but the *Herald-Sun* towers over its Melbourne rival outselling *The Age* by about three to one and claiming a daily readership of over 500,000. The *Daily Telegraph* has a similar advantage over the *Sydney Morning Herald*. In Adelaide, Brisbane, and Darwin there is no competition to the Murdoch dailies. The only really independent capital city daily is the *West Australian* in Perth, and it is now linked to a national television network through the multi-millionaire Kerry Stokes.

For several months (in fact for the whole of 2012) the Murdoch newspapers campaigned vigorously against any suggestions that government interference in the press should be increased post-Finkelstein and CR reports.

Perhaps the Murdoch press need not have become so hyperactive over the Finkelstein review. Sensing that the report would create political problems for an already weak government, the Minister for Communication, Stephen Conroy, kicked Finkelstein into touch and announced that the long-running Convergence Review would in turn review Finkelstein and then make its own recommendations. The Convergence Review report, published in May 2012, was far less prescriptive and shied away from a statutory based regulation/accountability body. It did recommend that a one-stop media complaints mechanism be explored in conjunction with industry.

Finally, Some Action—Too Little, Too Late

When the Australian government finally declared its hand in relation to media reform, there was another flurry of activity and another round of media hyperbole about interference and threats to freedom of the press. The government (paralyzed by internal brawling) took more than 12 months to issue its response to Finkelstein and the Convergence Review.

Communications Minister Conroy announced a raft of legislation (a total of five bills) which would enshrine some reforms to media regulation, provide a pay-off for television stations to sign-up in the form of a 50% reduction in their license fees, mandate more hours of Australian content on broadcast media, and create the office of a Public Interest Media Advocate (PIMA). Of course, it was this last initiative that created the most controversy. The PIMA's main function would be to tick-off on self-regulation schemes managed by the current players, in pretty much the same configuration as existed at the time (Hirst, 2013a). As far as government interference is concerned; what was proposed in the Conroy bills is at the very mild end of what might be possible. But even

this was too much for most editors and media bosses. Yet again, the old media dragons cried wolf on free speech, completely ignoring that the Australian broadcast sector has been statutorily regulated for a long time without any free speech issues (Lidberg, 2013).

The only tangible outcome from the Australian media inquiries was a strengthening of the Australian Press Council. After the IMI report, it managed to negotiate a new deal with its members (the newspaper and magazine owners and the other industry actors). The core of the agreement included:

- A four-year notice period for members wanting to leave the press council—considerably strengthening the APC's finances.
- A close to doubling of funding from members' contributions.
- A contractual agreement that members pay their fees AND adhere to the council's guidelines—including publishing any adjudications in a prominent place (APC, 2012).

It remains to be seen what effect, if any, this will have on newspaper accountability, ethics, and behavior.

Conclusion

From the data and discussion presented in this commentary, the reactions to issues of media accountability in Australia can be positioned on a continuum. It ranged from certain media actors (one proprietor, the journalism union, the organization of news ombudsmen, the Press Council, and a few new/alternative media startups) regarding public trust in journalism as a serious accountability issue to the News Limited position, in which free speech arguments are employed to protect and further the company's commercial interests. This was clearly illustrated by News Limited's submissions to the two inquiries, the unfair way it covered the inquiry reports, and its response to the federal government's proposed media reform laws.

Another conclusion is that public discourse, based on mainstream media reporting of the reviews, centered on media regulation. This obscured the fact that regulation is but the means to the end—media accountability.

It takes a long time to build the momentum needed to change media laws. The Gillard government squandered the opportunity for change in Australia by trying to push complex media legislation through federal parliament in just nine days. Predictably, most of it failed.

The political conditions in Australia from 2010–2013 were such that a Labor government, reliant on the votes of seven independents to maintain its minority leadership, was always going to battle to get its reforms accepted. But it was not just the political conditions and the electoral cycle that beat communication minister Conroy's reforms. From the beginning they were reactive and badly thought out (Hirst, 2012a). The reasoning behind the Finkelstein inquiry may have been well-intentioned, but the news media (and Murdoch's papers in particular) were able to portray the whole exercise as a deliberate attack on a press that was only doing its job (Hirst, 2012b).

In op-ed pieces and dozens of editorials, *The Australian* argued that the Media Inquiry was a knee-jerk reaction of a rattled government that was intent on silencing its critics—to wit, the Murdoch newspapers. Media attention was given to a doorstep interview by the then Greens leader in Australia, Senator Bob Brown in May 2011, in which he accused the Murdoch press of being the 'hate media' in Australia. Brown was angered by what many observers felt was a vigorous

campaign of 'regime change' by Murdoch's newspapers. Editorially, they were hostile to the Labor government and seemed to be giving the conservative opposition leader, Tony Abbott, a free ride. Of course, Brown's throw-away line (while it contained grain of truth) was re-used endlessly to represent all of the logic behind Finkelstein. It played well to the public, jaded by the cynical way that Australian politicians had fought each other for the meager spoils of office (Hirst, 2013b). By portraying any proposed reform as another attempt to shut-down a critical news media, the Murdoch papers were able to derail debate and deflect attention away from an inspection into its editorial standards. They instead focused attention on what they described as the creeping socialism (or Stalinism) of the Australian Labor party alongside assorted liberals and leftists.

The clearest indication of this agenda came in the days after Stephen Conroy announced that legislation would go before parliament to give effect to the media reforms—including the establishment of a Public Interest Media Advocate. A front page of the *Daily Telegraph* compared the Minister to Robert Mugabe, Stalin, Mao, Castro, Kim Jong Il, and other dictators. The emotive power of this attack was evident, but factually it was a little wide of the mark and provoked condemnation from some media commentators.

More than two years of political time was devoted to the Convergence and Finkelstein reviews, but the legislation that resulted—flawed, rushed, and half-baked, was killed off in less than 10 days. What started as a genuine attempt to engage the Australian public in a discussion of media ethics and journalistic standards ended as a tragic farce. An opportunity to put 'public interest' at the core of news media accountability failed miserably and probably ensured that it would be business as usual for the big Australian media companies for the foreseeable future. A government facing terminal decay six months out from an election it could not win could not design legislation that would garner either public support or grudging respect from the news media.

Rupert Murdoch took advantage of these tactically favorable conditions to advance his own agenda of 'regime change' in Australia. The Tory opposition party—almost assured of winning the September 2013 national election, has vowed not to reintroduce any reform remotely similar to that proposed by the Labor party. Instead, we are likely to see business conditions opened up in such a way that the tendency to oligopoly (or eventual monopoly) of the media industry in Australia is encouraged.

The political economy of the Australian news media is such that Rupert Murdoch remains the last mogul standing. The two other historically significant Australian media families have collapsed. James, the son of Kerry Packer, has sold down his once extensive media holdings to concentrate on the gambling industry. Fairfax Media—the once proud newspaper dynasty of the Fairfax clan has tanked. Its share price has fallen from \$5.00 five years ago to under \$1.00 today. Savage cuts to reporting and ancillary staff across both News Limited and Fairfax have gutted the news-gathering capacity of both organizations, and it appears now that Fairfax is being prepared for carve-up and sale in order to harvest the last grains of profit from the brand before it is effectively scrapped. There is no groundswell of opposition apparent and public opinion seems very passive on the issues of media ownership and accountability. The most prominent voices in the debate have been those of the libertarian right (organized through the Institute of Public Affairs) and they have been shrill in their condemnation of media reform; characterizing it as creeping socialism and heavy-handed state interference in what should essentially be just another private enterprise. Under these conditions it is unlikely that there will be any change in Australian media regulation in the near future.

One final point needs to be made about this debate. The idea of greater state intervention in the media is anathema to the libertarian cause, but it is also, in some respects, sensibly opposed by the journalists' union in Australia. The MEAA has pointed out that the greatest danger to press freedom is the actions of the government in prosecuting reporters for refusing to divulge confidential sources in whistle-blowing cases and from wealthy individuals who can pay for expensive legal representation to seek prior-restraint injunctions against news media, which too closely investigate their business affairs. Neither of these crucial issues were adequately addressed by the inquiries, nor in the final versions of legislation proposed by Stephen Conroy. For the reasons outlined in this commentary, the opportunity to implement serious public interest media monitoring has been lost.

In summing up the media inquiries in Australia two quotes come to mind. First, Conboy's thoughts on the audience, media owners, and the crumbling of the current business model for journalism:

...this doom-laden perspective, which permeates the news media industries ignores the fact that historically it is the audience, not the business model, which defines the contours of journalism. The business model has simply enabled journalism to marketise this audience for maximum profitability. (Conboy, 2010, p. 7)

Second, the final remarks in his submission to the Independent Media Inquiry of one of Australia's most prominent newspaper editors and current alternative media proprietor, Eric Beecher:

Unless the media puts its own house in order, transparently and aggressively, there is every chance over the next few years that governments and courts, under pressure from the disillusioned consumers of journalism, will do it for us. (Beecher, 2011, p. 8)

Media owners and editors around the world could do worse than taking a leaf out of Conboy's and Beecher's books.

Endnotes

1. The media industry submissions were used in a content analysis that captured and described the attitudes toward a number of issues, including media accountability and public trust in journalism. The submissions were imported into NVivo (Qualitative data evaluation software) and interrogated using the keywords listed in Table 1. The keywords were used to identify the sections in the submissions that discussed the categories (key issues) (Lidberg, 2012).
2. Independent Media Inquiry: Australian Associated Press (AAP), APN News and Media, Country Press Australia, Delimiter, DMG, Radio Eric Beecher, Fairfax Media, Media, Entertainment and Arts Alliance (MEAA), News Limited, Newspaper Publishers Association, Ninemsn, Organisation of News Ombudsmen (ONO), Property Review Australia, Special Broadcasting Services (SBS) Seven West Media, The Global Mail, West Australian Newspapers, Workday Media.
3. Convergence Review (some organizations submitted to both inquiries): Australian Interactive Media Industry Association, Australian Broadcasting Corporation (ABC), APN News and Media, Australian Press Council (APC), Channel 31 (community television), Commercial Radio Australia, DMG Radio, Fairfax Media, Free TV Australia, MEAA, News Limited, Network Ten, ninemsn (joint submission with among other Yahoo7!, eBay and Google), Seven West Media, Southern Cross Austereo.

Author Bios

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Martin Hirst is associate professor in journalism and multimedia at Deakin University in Melbourne. He has a 40+ year engagement with practical and academic radical political economy and has been a scholar in journalism studies for 20 years. He is author and co-author of several books on journalism ethics and new media that engage with the traditions of the political economy of communication. He is widely published in collections on journalism theory and practice. He is a regular contributor to academic journals and media commentary. Dr Hirst's PhD, *Grey Collar Journalism: The social relations of news production* was completed in 2003.

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