

Press Freedom Discourse after Leveson: Ethics, Elections and Media Concentration in Australia

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Introduction

Ongoing debates in Australia concerning best practice models of press regulation have unleashed a major contest over press freedom discourse. It would not be an exaggeration to observe that powerful news print media owners and their supporters have framed their responses as a reaction against proposals for reforming regulation in the United Kingdom, Australia, and elsewhere.

The conduct of News Corp Australia¹, the local subsidiary of News Corporation, during the Australian Federal elections in September 2013 has again shown how this company scrapes the bottom of the news media ethics barrel. Their papers' campaigning headlines against the Labor Government were analyzed in a previous edition of *The Political Economy of Communication* (Lidberg and Hirst, 2013: 111–121).

Seventy-seven complaints to Australia's self-regulatory body the Australian Press Council (APC), regarding the *Daily Telegraph's* 'Kick this Mob Out' front page on the first day of the official election campaign period, were dismissed. The headline and feature article were said to constitute 'editorial' content. That the content appeared on the front pages of News Corp's tabloid mastheads did not appear to alter the Council's position, despite election advisory guidelines stating that "a paper's editorial viewpoints and its advocacy of them must be kept separate from its news columns" (Australian Press Council, 2009: para. 2). The issue of self-regulatory capture (by major media companies) was therefore legitimately raised by these adjudications.

News Corporation Australia and its parent company have successfully mobilized a press freedom discourse to ward off the introduction of more rigorous regulatory standards for the print media. The political economy of the news print media in Australia is quite well-documented. News Corp Australia claims it accounts for 63 percent of newspaper sales. Other figures indicate their dominant position in the market: they own 14 out of 21 daily newspapers and 65 percent of national daily circulation. The top two companies, News Corporation Australia and Fairfax Media, accounted for 86 percent of newspaper sales in 2011 (Flew and Goldsmith, 2013). An international media concentration research project led by Eli Noam found that of 26 countries surveyed Australia had the most concentrated newspaper sector (Noam et al., 2011). In the event that Fairfax Media

further shrinks its distribution of daily papers, say to weekend editions only, daily hard copy distribution would be dramatically concentrated within a very dominant News Corporation Australia.

In the post-Leveson context we continue to witness unaccountable private media corporations, neoliberal commentators, journalists and editors cynically mobilizing an idealized rhetoric of ‘free media’, ‘the right to know’, and other similar slogans to lobby against ‘unnecessary’ state-led media regulatory reform measures. Illustrating the symbolic importance of press freedom discourses, the conservative Federal government of Prime Minister Tony Abbott has even appointed a Human Rights Commissioner, Tim Wilson. He has become generally known as the new ‘Freedom Commissioner’. A self-described ‘classical liberal’, Wilson, who was formerly a policy director at the right-wing think tank, the Institute of Public Affairs, is in tune with the bigoted ideologies of his masters. What some media (and other) commentators have sometimes failed to fully recognize is that press freedom discourse is embedded in particular media ownership arrangements (and governance arrangements including the Human Rights Commission). The extent of actual media diversity is largely a consequence of the permissible practices and official cultures in large media organizations. The interrogation of the *News of World* editor Rebekah Brooks before the phone hacking criminal trial at the Old Bailey is a practical instance of how the principles of press freedom should be framed. The journalists at the now defunct Murdoch tabloid, *News of the World* abused press freedom and now the media are acting properly, and assisting the courts, by reporting the trial. In both instances, the publication of stories based on ‘hacked’ information and the subsequent exposure of such practices, media owners stood to benefit commercially. However, only in the latter case does ‘press freedom’ stand in an ethical light.

During election periods, such matters become highly visible and of great significance, as they have in recent times in Australia.

Press freedom or ‘unfreedom’?

The term ‘freedom’, like that of ‘democracy’, is multilayered. At one level, ‘freedom’ plays into the mythic East–West binary, and this is routinely confirmed in all kinds of media coverage. In this context, the *New York Times* has pointed out that the term ‘freedom’ is a banned topic in Internet searches behind the Great Firewall of China (NY Times, March 22, 2010). This reinforces the assumption that East equals despotism and West equals freedom.

The irony, of course, is that much of the justification for a ‘free press’ against ‘state despotism’ derives from the time when Thomas Paine was charged with seditious libel, and when the framers of the First Amendment to the US constitution banned laws abridging freedom of speech or the press (Jones, 2012). When ‘media’ or ‘press freedom’ is raised as a topic, many people would automatically think of the WikiLeaks organization, or perhaps other major examples of investigative journalism concerning state and private corruption. That the meritorious *Reporters Without Borders World Press Freedom Index* is also making a contribution to the theory and practice of press freedom is beyond question. In 2013, the index notes a turn away from “dramatic political developments” (after the Arab Spring events) to “the attitudes and intentions of governments towards media freedom in the medium or long term” (Reporters Without Borders, 2013: para. 2). It’s no coincidence then that the top performing countries from last year, Finland,

the Netherlands, and Norway, are again at the top of the league table. These are countries with sophisticated legislative mechanisms and processes that protect media freedom.

According to the 2013 index, the political system of the country in question is not an explicit ranking criterion. However, it is clear that democracies generally provide the best context for unrestrained press or media freedom through the emphasis upon verifiable information. In dictatorships, “news providers and their families are exposed to ruthless reprisals” (Reporters Without Borders, 2013: para. 5). Tabloid or conservative media corporations can cynically play with this kind of self-evident knowledge. When Australia’s former Labor Minister for Broadband Communications and the Digital Economy, Senator Stephen Conroy, proposed the creation of a ‘Public Interest Media Advocate’ to administer a public interest test, as a partial response to the Finkelstein Independent Media Inquiry, News Corporation’s Sydney tabloid, the *Daily Telegraph*, taunted in a *News of the World*-style headline that itself became a focus of the media debate: ‘Conroy Joins Them’ (*Daily Telegraph*, March 13, 2013). The front page depicted a bewildered looking Conroy alongside the comment ‘These despots believe in controlling the press’. The images of Stalin, Mao, Castro, Kim, Mugabe and Ahmadinejad were prominently displayed. The election campaign front pages continued the pattern. They included ‘Kick this Mob Out’ on day one of campaign through to a Nazi-themed page ‘I know Nuthing’, modeled on the 1970s prisoner of war sitcom *Hogan’s Heroes* that depicted Prime Minister Rudd and his Deputy Anthony Albanese in Nazi uniforms. Following this, there was a cheesy smiles ‘Send in the Clowns’ front page. There was no civility in this discourse, and it pointed to the sheer power of media speech underpinned by the logic of accumulation and concentration (Curtin, 2011).

In any event, the *Reporters Without Borders World Press Freedom Index* is an important way to independently monitor the ability of a country to sustain a free press/media. It is also a way to legitimately monitor the usefulness of the term ‘press freedom’, and to see where and why the idea is so important.

It goes without saying that the discourse of press freedom is intrinsic to democratic policies and equips media organizations with an imprimatur to investigate important matters of public interest. But it means that media industries are typically the key players in reproducing the discourse of freedom. Mythologies of ‘the freedom of the press’ can thus be mobilized by media proprietors, their managers and related proselytizers. These mythologies are embedded within United States culture—we only need to look at how Hollywood churns out Oscar-nominated blockbusters that rely heavily on the discourse. Here, media freedom equates to the Hollywood juggernaut having its way with the telling of history. Personal freedom is the wider ideological terrain upon which these narratives can be told in neoliberal times.

One commentator has noted, in the Leveson context, that “freedom to report is just the beginning: beyond that are issues such as the influence of proprietors...” (Lloyd, 2012: para. 2). In other words, while there is partial journalistic autonomy and no shortage of drive and motivation, without organizational support these efforts can be easily thwarted. Making a related point, a colleague has referred to the Leveson moment as one which takes regulatory policies beyond ‘First Amendment fundamentalism’ (Jones, 2012). This is an important observation and it resonates with those who argue that more formal, government or parliamentary frameworks are needed to guarantee, underwrite and protect press freedoms (Fenton, 2012).

Unlike the media democratization we have witnessed in post-communist states of Eastern Europe, Middle Eastern regimes, and in post-authoritarian states elsewhere, assertions that media

reform measures will detrimentally restrict free speech, or actually threaten the ability of the media to operate freely in western democracies, are wildly exaggerated. As Benedetta Brevini has argued, in reporting Leveson the press had a fundamental role in “defining and circumscribing the terms of that debate” and in effect became part of the discursive problem. Furthermore, she argues “the notion of press freedom was always exclusively tied to the threat of statutorily underpinning press regulation. Media reform groups were forced to articulate defenses on the basis that statutory underpinning would not threaten press freedom, with little room to demonstrate the real threat to press freedom posed by ownership” (Brevini and Schlosberg, in press).

Media reform activists should strategically critique these kind of ‘free press’ mantras by pointing out that regulatory restraints are safety mechanisms for the welfare of broader societal interests. Together with conventionally accepted restrictions arising from contempt, defamation, racial vilification, national security, and anti-terror laws, media regulation reforms should be recognized as broadly utilitarian. Their purpose ought to work against media corruption and poor media performance in the public interest.

Press freedom for the loudest and most powerful owners

The argument that the ‘press freedom’ slogan requires close scrutiny draws on the observation that the loudest proponents are often the most powerful media corporations, who lack adequate systems of accountability. We can reasonably ask, therefore: Why is it that these media corporations see it as an unfettered right to use a press freedom discourse to assert that they should not to be subject to mechanisms that ensure effective news standards and quality content in a democracy? After all, every other large-scale capitalist enterprise is accountable at the consumer level. Of course, the historical evolution of the news media industries has been tethered to the business expansion of these corporations in so many ways. This means that the discourse of press freedom is seamlessly woven into that business evolution. The principle has a public sphere role and there is a need to intervene in matters of public concern, but the owners’ asserted freedoms to report are primarily activated within a market-liberal business environment.

It has not been lost on a number of academic commentators that in the regulatory debates that have accompanied the formal inquiries in Australia and the United Kingdom, powerful news media corporations (not just News Corporation), use their own and other media outlets’ market power and cultural resources. They are therefore, in a very strong position to propagate the notion that regulatory reform of the print media would inflict dire restrictions on press freedom. This, they trumpet at every opportunity, would be anathema to democracy and would pave the way for the creation of totalitarian regimes. On the other hand, the critical paradigm of media studies has shown us that the cultural or symbolic power of media corporations is closely linked to their market-industrial or economic power (Garnham, 1986).

Press freedom for celebrity right-wing commentators

Right-wing libertarian commentators frequently become embroiled in debates involving hate or racist speech. We only need to consider media coverage of the Muhammad cartoons. Free speech principles and related press freedom discourse were enlisted to defend their publication, without qualification, despite their inflammatory nature.

One of the most well-known right-wing libertarian commentators in Australia, Andrew Bolt, is a columnist for the News Corporation Australia tabloid, the *Herald-Sun* in Melbourne—roughly the equivalent of the United Kingdom’s *Sun* newspaper. He is also the host of an opinionated television program on a commercial network, which had Lachlan Murdoch as its Chairman until he recently stepped down. In 2011, Bolt was found by a Federal Court to have breached a provision of the Race Discrimination Act that prohibits hate speech. The Bolt case arose from two newspaper articles (both in print and online) in which he suggested that some indigenous Australians were scamming the welfare system with their (lighter) skin color, and that they were not ‘legitimate’ Aboriginal people (Bromberg, 2011; Hirst and Keeble, 2012). This situation and similar remarks made by other media commentators led the Gillard government to consider amending Section 18 C of the *Racial Discrimination Act, 1975* (and the related *Racial Hatred Act, 1995*). It proposed to re-enact the section as Section 51 of new omnibus legislation, the *Human Rights and Anti-Discrimination Bill, 2012*, to remove any uncertainty about racist or hate speech. However, after Gillard was deposed by Kevin Rudd and Labor lost the subsequent 2013 Federal election, the move was dropped. It has now been taken up, for different reasons, by the Abbott government.

Not surprisingly, conservative politicians and media commentators quickly labeled moves to amend the racial discrimination laws as evidence of the then Prime Minister Gillard’s ‘War on Free Speech’. Predictably, in September 2013, the newly-elected Abbott government vowed to proceed with their pre-election promise to repeal sections of the *Racial Discrimination Act*. For them, a provision which makes it unlawful to “offend, insult, humiliate or intimidate” someone on racial grounds is simply restrictive of speech; the harms perpetrated on the lives of the less powerful are relegated to a secondary position. The Attorney-General George Brandis has said, perversely, when he was introducing the Abbott government amendments, that “people have the right to be bigots” (Chan, 2014).

In this kind of scenario we can see that any laws restricting racist hate speech are reframed as clamping down on free speech/press freedom. Examples of this kind can be observed in other media systems around the world.

Australia does not have any constitutionally enshrined guarantee of free speech. There is no Bill of Rights or equivalent at the Federal level. However, there have been a series of high court cases since the 1990s that have recognized an implied right to free (political/governmental) speech. On the other hand, Australia does have laws at the Federal and State level, which prohibit racial vilification and hate speech (Dwyer, 2012). The upshot is that there is always a great deal of tension and contestation over categories of speech, and inevitably it is highly politicized. So we can assume that right-wing commentators will continue to twist the debate into one about ‘political correctness’ and the need for ‘press freedom’ against meddling politicians.

Private media corporations

In the context of Australia’s version of Leveson, the Finkelstein inquiry, ABC television’s *Lateline* current affairs program once again raised the problematic notion of press freedom. The guest commentator was News Corporation’s Campbell Reid. He is one of the most senior editorial managers in Murdoch’s Australian press operations. His performance clearly demonstrated how News Corp Australia had co-opted ideas of press freedom to justify its own defense of the status quo. The corporately enforced position is “no government funding/financing” and “no statutory

enforcement powers” for any industry regulator. As Campbell Reid observed on *Lateline* “There’s a better way (than to have any form of regulation that constrains press freedom)..just don’t do it!” The unequivocal implication was that from a News Corporation perspective (with Reid as the mouthpiece), the preferred position was that the press should maintain the self-regulatory framework currently in place because it had worked well for News Corporation. On that basis they would continue to fund Australia’s Press Council. This organization is member-funded and the largest single financial contributor is News Corporation Australia. They doubled their contribution as a pre-emptive bargaining tactic in the reform bargaining processes with the Gillard Labor government. News Corporation’s argument is that “government funded/financed regulation is tantamount to government control” over the print media.

This needs to be interpreted as a self-interested position. News media corporations feel compelled to campaign hard against climate change and green politics generally, industrial relations, and media regulation. At the same time, they express support for preferred political parties and candidates. Media corporations have political agendas and seek political influence. In some cases, they will intrude into the privacy of individuals in order to generate sales revenue. As private media corporations they simply do not want interfering governments to meddle in their business and/or political affairs. This lobbying position informs their view on cross-media rules; again, they are trenchantly opposed to laws that impinge on their business models.

Private media corporations such News Corporation have successfully captured ‘free speech’, ‘freedom of press’ and similar terms for their own political and business lobbying purposes. Unfortunately for media reformers, since the late 20th century, these ends have been consistent with mainstream media policy. This is occurring in a context where neoliberalism has ensured that public policies concerning the press broadcasting and telecommunications are shaped by the rhetoric of state censorship, individual choice, deregulation and market competition. As Curran and Seaton have argued, in this kind of rhetorical presentation “freedom of the press remains the freedom of the people who own it” (2003: 411).

My intention in this commentary is not to set out the broader litany of ‘press freedom discourse’ swept along in the wake of the Leveson tsunami across Anglophone media markets (Leveson, 2012). Rather, I want to scrutinize the manner in which vested, media-related interests use press freedom discourse for their own political and business ends. Notions of press/media freedom are routinely invoked in highly politicized and self-interested ways. Critical reflection on these discursive practices is useful for strategies of media reform.

A cautionary observation that can be made regarding press freedom discourse is related to the arguments made by digital utopians. Alongside the concern about threats to media freedom from reforming media regulation, is the view that social media and the Internet allows vast audiences to use their device of choice to find the information they need. Turnbull, the Minister for this portfolio in the Abbott government, has previously asked: “So have we reached a nirvana for freedom of speech—with everyone a publisher via their Smartphone, a platform so compelling that even the greatest newspaper mogul of all time, Rupert Murdoch, has become a tweep!” (Turnbull, 2012: para. 62). Media consumers and citizens need to be alert to these new twists in media freedom discourse. Turnbull went on: “while there are real threats to our freedom in the digital world, the opportunities for greater freedom of expression, greater access to knowledge and information far outweigh the risks. The glass is much more than half full” (Turnbull, 2012: para. 124). This is the

same politician who is now leading the charge to dismantle Australia's highly innovative National Broadband Network.

Post-election media concentration

The Abbott-led government is making many of the media policy changes that they promised during the 2013 election campaign. Communications Minister Turnbull's team has been fervently undoing the innovative fibre-to-the-premises work that had been underway for several years. Former Telstra frontman Ziggy Switkowski has been installed as the preferred Chairman on the National Broadband Network after Turnbull asked whether former directors from the board might like to 'reassess their positions'. The executive team for Australia's largest infrastructure project is to be led by former Vodafone Hutchison Australia boss Bill Morrow. Labeled a 'turnaround' expert for his record of slowing the exodus of customers from the troubled Vodafone, his task is to implement the Abbott government's perversely retro copper wire vision of the National Broadband Network.

According to Fairfax Media, a National Broadband Network co-analysis report for the incoming government proposed that the "fibre-to-the-node NBN promised by the Coalition ... would be unable to deliver the advanced digital services people expect" (Braue, 2013: para. 5). Those services include "quality voice telephony and reliable-quality video transmission required for delivering e-health and education to rural and remote areas" (Braue, 2013: para. 6).

Of even more significance for news diversity in Australia, the Abbott government is poised to take a 'reviewing' razor to the 'left-leaning' public service, the Australian Broadcasting Corporation (ABC). These were classic pre-rehearsed moves on the part of a conservative government, but the absence of any argument about the supposed public benefit has been staggering. The government has been on the attack after being spurred on by several high profile 'trigger' news stories. I refer, in particular, to the reportage (in partnership with *The Guardian's* Australian operation) based on Edward Snowden's leaks concerning the US National Security Agency (NSA). The Australian Intelligence Service (ASIO) was said to have monitored the phones of Indonesian president Susilo Bambang Yudhoyono, his wife, and other prominent figures. It was particularly galling for the conservatives that the ABC had partnered with an organization they perceive as left of center. Subsequent attacks on the ABC have played into a wider neoliberal critique which sees the organization as a sprawling media behemoth that exceeds its legitimate role in the Australian media scene. This view is most forcefully expressed by News Corporation Australia columnists who regard the ABC as a threat (particularly to their online media outlets and commercial operations). The fact that popular sentiment sides with the ABC, as an independent voice, in an otherwise highly concentrated media landscape will not dissuade a belligerent Abbott government. Further concentration of Australia's media is just around the corner with the likely removal of long-standing diversity preserving rules for commercial, free-to-air network television.

Labor Senator Stephen Conroy was unable to achieve change with his proposed package of reforms in the weeks preceding the 2013 Federal elections (this included ditching the so-called 75 percent rule). Without this rule in place commercial television networks will be able to expand and merge with regional affiliate networks. There has been considerable speculation about the expected shake-up in commercial television and deals that are in the making. Already there have been divestitures as owners position themselves for major changes. Regional television company Prime Media, which has an affiliation agreement with the Seven commercial free-to-air network, has seen

its chairman Paul Ramsay divest his dominant holding for around \$100 million, in anticipation of legislative changes.

During 2013, the Nine network bought the affiliated Channel Nine television stations in Adelaide and Perth. However, the head of the media regulator, the Australian Communications and Media Authority (ACMA), appeared unconcerned about further concentration in commercial television when appearing before a Senate estimates committee. Replying in response to a question about whether existing rules would prevent Murdoch's News Corporation from buying Network Ten, he stated that: "On its face, that alone would not necessarily be problematic. Based on the current information that we have available to us" (Battersby, 2013). Presumably therefore, the media regulator was not too concerned about News Corporation heir apparent Lachlan Murdoch's investment in Network Ten, of which he was until recently the Chairman, nor with his stake in the DMG Radio Australia group.

In late March News Corp and Network Ten, in separate media releases, announced that Lachlan Murdoch had been named Non-Executive Co-Chairman of News Corp and 21st Century Fox by the Board of Directors. Murdoch Jnr. retains his 8.8 percent shareholding in the Ten network. It was also announced that Ten CEO Hamish McLennan had replaced Murdoch as chairman of the company. Critics noted that the media releases forgot to mention the tragic business decisions that Murdoch Jnr was involved in. His failed investments in Superleague, One Tel, and MySpace have cost News Corp over AUS\$1 billion in losses.

Elite relations

Australia's media policymaking tradition of intimate relations between proprietors and ministers is clearly alive and well. It was reported that Internet utopian and Communications Minister Turnbull held a two-hour meeting with some of the nation's most powerful media chiefs at his Sydney electorate office in early March. It is no secret that those attending the meeting were, for the most part, keen to repeal existing concentration rules. As well as the 75 percent reach rule, also in the owner's sights are removal of the 'two out of three' rule, which prevents a single entity owning more than two newspaper, television, or radio assets in the same market. Fairfax Media, a critical player in these events, did not attend the meeting. Its flagship daily, the *Sydney Morning Herald* quoted Ten's CEO (now Chairman) former News Corp executive Hamish McLennan as saying "The minister was a very good ringleader and it was a constructive discussion" (Mitchell, 2014: 11).

Turnbull's pro-Murdoch, deregulatory position is no mystery—it is after all the prevailing view in the government. At a launch of Morry Schwartz's new weekend title *The Saturday Paper* in March 2014, Turnbull attracted some media attention for his comment in relation to Schwartz: "You are not some demented plutocrat pouring more and more money into a loss-making venture that is just going to peddle your opinions" (as cited in Ireland, 2014: para. 4). Asked later if this was a reference to Murdoch Snr., Turnbull backtracked and claimed that "Murdoch is the most normal media mogul I know" (as cited in Ireland, 2014: para. 4). It was surprising that at the time the media had not made any observations in relation to Turnbull's own normalcy. A multi-millionaire with extensive telecommunications investments, a former investment banker and legal adviser to Media mogul Kerry Packer, Turnbull is hardly run-of-the-mill 'normal' himself—especially for a communications minister who should, presumably, be acting in the public's interest.

Conclusion

Since the mid-20th century, there has been substantial international support in Western democracies for plurality of media ownership. Public policy and laws designed to place structural limits on the number of media outlets owned or controlled by one proprietor have been regarded as a precondition for ensuring a diverse range of viewpoints in democratic nations. The assumption has been that concentrated ownership confers undemocratic power on 'influential' owners to sway governments, and advance their own private interests. The power of major media groups in this key area of public policy has long been recognized, particularly during election periods when ruling political parties only make significant policy changes with an eye to how they may impact on media allies. This is evident in the latest neoliberal adjustments to media concentration governance in Australia.

Since the 1990s, the Australian mediascape has been dominated by virtually the same local players and ownership concentration has increased. In an era of convergent media, the traditional media corporations have to some extent been re-engineered, and are in decline. Not surprisingly they are drawing on all the rhetorical ammunition at their disposal, including those of 'free speech' discourse, to assist their faltering business empires. In the transition to a mediascape dominated by broadband Internet distribution and the new US-centric behemoths such as Google, Facebook, Apple, Amazon, and eBay, Australia's traditional media owners are unlikely to survive in their present form.

Endnotes

- [1] News Corp Australia was formed in June 2013 when Murdoch's Australian holdings (formerly known as News Limited) was split into two groups; one to focus on newspapers and the other on cable TV and broadcast activities.

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