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There's no doubt this is an exciting time for those of us with a passionate interest, either professional or personal, in the media.

Media convergence and possible changes to media regulation open up many exciting possibilities. Perhaps the Herald Sun could merge with Channel Ten, make Andrew Bolt host of Big Brother, and he could just throw everyone out of the house in the first episode.

Or John Singleton could buy Channel Ten, make Alan Jones host of Australian idol, and not have to bother with any auditions.

Or maybe Channel 9 will buy Fairfax, and give Eddie McGuire a chance to complete his domination of Melbourne media outlets.

To many in this room though, media convergence and changes to media regulation are no laughing matter, and may instead be seen as something which threatens the very existence of traditional media and even the profession of journalism.

Those who hold that view would find yourself in good company. As a landmark address to the American Society of Newspaper Editors in April put it:

> *What is happening is, in short, a revolution in the way young people are accessing news. They don't want to rely on the morning paper for their up-to-date information. They don't want to rely on a God-like figure from above to tell them what's important. And to carry the religion analogy a bit further, they certainly don't want news presented as gospel. Instead, they want their news on demand, when it works for them. They want control over their media, instead of being controlled by it.*

As *The Economist* pointed out, the speech was astonishing not so much for what it said, but as for who said it - Rupert Murdoch, the one person who has perhaps more to lose from a media revolution which might take control away from proprietors and put it in the hands of the audience.

For the world's biggest newspaper publisher, that's a lot to lose. As Murdoch he noted, one commentator has estimated that if current trends in newspaper readership continue, the last reader will recycle the last printed newspaper in April 2040.

So we are in the midst of a very exciting era in media development and regulation in Australia, and indeed internationally.

Media deregulation

I should state here that whatever changes are made to the laws controlling media ownership or broadcasting spectrum are entirely a matter for Federal Parliament.

Whether or not cross-media restrictions are removed, for example, is up to parliament. I therefore won't be commenting on such policy matters.

But there has been a lot of speculation about possible acquisitions in the event that the current cross-media ownership restrictions are eased, and more common ownership of newspapers, free-to-air television and radio is permitted.

In my view, much of this speculation misses the point. It's possible that the emphasis of potential media acquirers will shift from one *end* of the media spectrum – the means by which customers access their news (newspapers, radio stations, free-to-air TV, pay-TV, the internet), which may be using outdated technology or business plans - to control of the pipes that are increasingly being used to deliver media content, and control of the content itself.

Relative to most industries, the Australian media is highly regulated. Protection of the free-to-air television networks is the cornerstone of this regulation, on the grounds that it ensures diversity in the services available to Australians at large.

There is an outright prohibition on new entry into free-to-air television markets. Existing free-to-air broadcasters also have first rights of refusal over the most popular sporting content, with competition from pay-TV precluded by anti-siphoning legislation. Other potential competitors have spectrum available, but are defined as datacasters and subject to extensive limitations on the types of content they can offer.

On the flip-side, there is a prohibition on free-to-air broadcasters using currently available technology and spectrum capacity to start multi-channelling; that is, offering additional channels and choices to consumers, either on a subscription or free-to-air basis. This lessens the competitive pressures faced by pay-TV providers.

But these protective regulations are dependent not only on continuing government support, but on the maintenance of the existing top down structure of the Australian media, and it's now clear the environment is ripe for change.

Technological developments and convergence
When we think of the media, we tend to think of it in its very traditional forms – newspapers we read over breakfast each morning, radio in the car on the way to work, TV when we come home at night. Perhaps in more recent times we have started to think also of the internet as part of this world. Nonetheless, we have generally differentiated these various silos, and defined them as different markets within the overall media industry.

Before I talk more about these traditional forms of media, though, I'd like to touch on some developments in telecommunications that I see as fundamentally changing the way media content will be delivered in the future. This might not seem an obvious connection, but it is increasingly apparent that what is often termed a 'convergence' between these markets and the media has substantial implications for all concerned.

The internet has obviously had a major impact on the way people communicate. Yet what we have seen to date is set to be further revolutionised as so-called 'broadband' access becomes a widely available reality. As the speeds at which information gets sent to us increase, and the capacity of telecommunications networks to deliver greater volumes of information grows, so too does the range of uses to which these technologies can be applied.

My more cautious colleagues call me an "embryonic technophile" and an optimistic one to boot. And it is true that the verges of the information superhighway are littered with the gravestones of failed technologies, but there is little doubt that continued developments of telecommunications networks will start to heavily affect the way we as consumers access media content.

Wireless local loops - from local telephone exchanges to customers' premises - are one new model being pursued. Another critical development is the increasing availability of much higher capacity ADSL2+ broadband. This runs at speeds up to around 20 megabits per second, compared to the recent maximum of around 1.5 megabits. To give those numbers some context, it generally takes about 6 megabits, using current technologies, to get live DVD quality TV delivered over the internet.

Another new technology is fibre, all the way to customers' premises.

As technological developments and takeup of broadband continue to accelerate a whole raft of new possibilities start to emerge. Telecommunications companies will have the capacity to deliver more than just telephone and internet services and increasingly, we see them moving into the delivery of broadcasting services.

And this is where telecommunications regulation meets possible media deregulation. Although convergence between telecommunications and media is often talked about, some may not find this an obvious leap.

Media regulation is about who may control different modes of retail distribution for conveying information. It is about who may control the newspapers, free to air and subscription TV channels and radio stations used to convey news and entertainment – the content – to individuals and households.

However as the traditional modes of conveying the content make way for delivery via the internet, how people get the content they desire, and at what speed, will be increasingly determined by the control of the telecommunications networks – the pipes – that connect homes and businesses.

It is also the case that as we get greater competition in the ways in which content can be delivered to our homes, the more important will become the control of the production and distribution of the content itself.

Technological revolution and the media

So cast your minds forward 5-10 years, and imagine the developments I was talking about before, but taken to the next level again. Every home has super-fast internet access linking us to everyone else. We don't have 'a' connection, we have a dozen. For many homes these are provided over the traditional copper phone-line, but using ADSL5+, for some it comes over powerlines, others are getting it beamed through wireless networks or over satellites, and some may have it sent via super-fast fibre going all the way into our living rooms, our studies, bedrooms, kitchens.

Companies have been building these high-capacity arteries into our homes, but now they have them they need to get the blood circulating. So what are they sending down the next generation networks? Phone calls, video calls, information, IPTV, music, movies, games, TV on demand, home videos.

The devices we are receiving all of this content on are becoming smarter. Personal computers and TVs don't look so different, and are capable of seamless, wireless communication. Personal Digital Recorders and TV downloads make it effortless for us to pick and choose the programs we want to watch, and when we watch them.

Media research has found that some 80% of the programs we watch are pre-recorded, so in the future high-capacity devices will be required for consumers to store their preferred viewing. At 1.5 gigabytes for an hour of high-definition television viewing, and with storage capacity of 300-500 gigabytes available at relatively low cost it is already possible to satisfy end users' needs for pre-recording the news and entertainment they view.

The next generation of compression technologies will continue to reduce the transmission capacity needed to send the information, and the space required on our personal devices. This means that technological advances may reduce the current focus on increasing the capacity and speed of the pipes needed to transmit and download information as it becomes easier for news and entertainment to be pre-recorded and viewed at the consumer's leisure. Our 3G/4G/5G mobile phones are equally capable of such dexterity - maps, transport information, music, email, all available at the touch of a finger. You can order lunch from the local café, video-call the office or just unwind on the trip home with a few minutes of your favourite TV show and goal of the day. Or perhaps you use the personal organiser for all that, because you like a bigger screen.

Online advertising has continued its strong growth. Classifieds are searchable anywhere, any time, on the mobile phone, TV and computer. Maybe they are still being printed in the newspapers, maybe not.

This revolution seems inevitable. Consumers' demands for speed, convenience and quality will continue to rise as each new development raises their level of expectation. And suppliers of media content will have to find ways to embrace the challenges these new demands pose.

We have seen these cycles before. Music was once delivered by the old 78 record, then the LP, audio cassette, flirted with digital audio tape before CD and now digital download rendered the other forms largely obsolete. Similarly movies have gone from the preserve of just cinema and TV to video (VHS or Beta?), past the cumbersome video disc to today's DVD and downloads.

So tomorrow's media providers will help drive technological progress across a range of fronts. Advances in packet-switching technology, higher bandwidths, greater digital storage capacity, enhanced buffering and compression technologies – these will all play their part in facilitating the myriad choices facing tomorrow's media consumer.

It is pretty clear, then, that the internet will be a key driver of the next wave of competition to the current media players, and the markets we have traditionally defined as 'media' will change. And the possibility is there for not one, but hundreds of new competitors to today's broadcasters.

What does all this mean for the free-to-air and subscription broadcasters of today? What does it mean for newspapers and radio? And what does it mean for current regulation of the media?

Unlike traditional media, the emerging online players are not subject to substantive limitations on content, ownership, geography or anything else. They can pick and choose the audiences they target, the content they buy, and the way they provide it, in much the same way that other businesses face myriad commercial choices.

Don't get me wrong – I'm not saying that there should be a rush to restrict these new competitors in terms of content or services which they can provide. Quite the contrary, it is the pressure that these new competitors can bring to bear on the current players that will provide the stimulus for higher quality, lower prices, and greater diversity for consumers.

But it poses challenges for policy-makers and regulators alike.

Media and telecommunications convergence

A key function of the ACCC is developing, to the best extent possible under the existing industry structure, a truly competitive environment in all aspects of telecommunications. To this end, the ACCC has regulatory powers specific to telecommunications, set out in Parts XIB and XIC of the *Trade Practices Act*.

These provisions exist because it is recognised that the networks over which telecommunications services are currently provided, and which in future may well be the conduit for a whole array of media services, often have monopoly characteristics which differentiate these markets from the more traditional media.

In this respect, it's absolutely crucial that existing network owners not be allowed to use their market power to close down new forms of competition. This could happen either through the roll out of new technologies and networks being impeded or through existing network owners obtaining exclusive control of the content that could be offered on the new networks.

Increasingly, video and TV services will be provided together with internet and traditional telephone services as part of what the telcos call the 'triple play'.

This in turn raises questions as to how relevant the existing restrictions on entry into television broadcasting markets are. As online broadcasting becomes reality, competition for current TV stations is just as likely to come from new business models as it is from a new spectrum licence holder.

Crucial to the success of any ventures using these new technologies, though, will be content rights, and control of premium sporting content, such as AFL, rugby, rugby league, cricket and tennis, could be pivotal.

It is vital therefore that no single network owner acquires exclusive rights to all that content and effectively locks out the potential competition.

There is a risk that the exclusive acquisition of such rights for new and emerging markets like DSL broadband and 3G mobiles will allow the rights-holders to shut out competition across a range of services delivered over these new networks. Ultimately, this could deprive consumers of choice and quality not only for broadcasting, but also voice, internet and innovative services such as video calls and determine the success or failure of a new competitor. I like to put it this way: if you can't control the arteries, what you do is get hold of the blood.

The *Trade Practices Act* has always recognised the potential for exclusive contracts to be anti-competitive. Section 45 of the Act prohibits companies from entering any arrangements that result in a substantial lessening of competition. Section 47 of the Act is even more explicit: exclusive dealing that causes a substantial lessening of competition is illegal.

For these emerging services, though, it is perhaps too early to judge how rights will be divided up, or whether the bundle of content that is compelling on your TV is the same as the bundle that is compelling on a mobile phone.

It is also worth noting here that the ACCC currently has fewer concerns about content exclusivity in relation to *free-to-air* broadcasting.

This stems from the fact there are some fundamental differences between how pay-TV services and free-to-air broadcasting services are provided to consumers.

With free-to-air services, broadcasters provide content to audiences free of charge and then sell these audiences, or access to them, to advertisers. Unlike pay-TV services - where consumers pay an up-front charge for access to a particular package of content from a pay-TV provider - free-to-air audiences face minimal switching costs in consuming free-to-air content from any one of a number of channel providers.

This has implications for the technology required to deliver the services. By contrast with pay-TV, free-to-air broadcasting does not require consumers to have sophisticated access devices required for signal encoding to prevent unauthorised use, nor does it require a return path for consumer viewing information, billing, program selection, and so on.

Perhaps because of these differences, free-to-air broadcasters are not highly integrated into voice and internet services in the way pay-TV providers are. Consequently, they have weaker incentives and ability to use content exclusivity to lock out competitors.

We have all read reports that the Federal Government is considering a number of reforms to broadcasting, including removing the prohibition on free-to-air broadcasters' ability to multi-channel. This is a welcome development. The ACCC remains supportive of the removal of this prohibition as a key factor in increasing the available range of innovative digital TV services, and digital take-up by consumers. Furthermore, we do not think that it would significantly increase the ability for free-to-air broadcasters to behave anti-competitively through exclusive content deals.

Nonetheless, the ACCC will continue to closely scrutinise the acquisition of exclusive rights to content to ensure that no carrier is able to use them to create a major barrier to entry into infrastructure markets, and that no broadcaster forecloses competition in free-to-air services. And we will continue to engage with the key industry players to hear their views on these trends in the market-place.

So the relationship between content and new networks is one area in which the ACCC may have an involvement. But as the regulator charged with protecting and promoting competition, in telecommunications specifically but more importantly in the economy as a whole, the ACCC has another substantial role.

Media mergers and section 50

I refer, of course, to Section 50 of the *Trade Practices Act*, which prevents mergers or changes in ownership between two or more entities which result in a substantial lessening of competition.

It is the very strong view of the ACCC that regardless of whatever changes are made to media ownership laws, Section 50 should continue to preserve competition in the media by preventing undue concentration or accumulation of market power which would result in higher prices or lower quality service for consumers.

Now the traditional approach when considering mergers in the media market has been to regard television, radio and newspapers as separate markets, while acknowledging they are part of a much wider media and communications sector.

However, we are now seeing the traditional business models re-defining themselves. For example, Fairfax Digital has provided a much richer form of content than traditional newsprint, with text, pictures, audio and visual reports of, for example, the Olympic Games. This not only changed the media experience for consumers, but required Fairfax journalists and editors to fundamentally re-engineer their traditional work processes – previously geared around day-end deadlines for overnight printing - to provide up to the minute text and quickly available video footage.

And notably, when The Age newspaper was recently criticised for not publishing a special edition to mark the death of the Pope after its traditional deadline, the paper’s response was that it had covered the event – on its website.

The Fairfax Digital content might represent a breaking news complement to the more detailed analysis available through print journalism. But content might also be subject to more radical revolution. Recent research by the Carnegie Corporation of New York suggests that the ways in which younger people are accessing what we call ‘news’ is fundamentally changing.

It found general interest web sites such as Yahoo and MSN that include news streams all day, every day are now the number one source of daily news for 18 to 34 year olds, with 44 percent accessing such sites at least once a day for news. Local TV comes in second at 37 percent, followed by network or cable TV web sites at 19 percent and then newspapers at just 19 percent.

From 1972 to 1998, the percentage of people age 30-to-39 who read a paper every day dropped from 73 to 30 percent. And in just the years between 1997 and 2000, the percentage of 18-to-24-year-olds who say they read yesterday's newspaper dropped by 14 percent, according to the Newspaper Association of America.

Not only is the internet surging up the list of most commonly accessed sources of news for 18-34 year olds, but the sources of that news are fragmenting. Increasingly, weblogs, or ‘blogs’, are the information source of choice for this age group.

And while mainstream media often deride the bloggers as amateurs, some are doing a better job than their competitors. The best example of this is the way bloggers, in just a matter of days, were able to uncover as fakes documents which the American 60 Minutes programme was relying on to prove President Bush had evaded military service. In a matter of days bloggers on the net had proven what the entire resources of CBS had not been able to do in months, and in doing so, hasten the downfall of US news legend Dan Rather.

The Economist reports that one political blog, *Instapundit.com* can count 250,000 viewers a day, who read first hand accounts from people in Afghanistan or Shanghai – correspondents in the original sense of the word.

OhmyNews in South Korea has 2 million readers and 33,000 “citizen reporters” whose stories are edited and fact checked by some 50 permanent staff.

It’s easy to see then why existing media proprietors now acknowledge the threat they face from the internet. With the capacity for anyone with a computer to set up their own blog and start providing news content, the business models of existing media players will have to respond, not only through the means of content delivery, but also in the means of content creation. How will they compete with the myriad individuals offering their own reporting and opinion? How will they maintain their audiences as the tastes of the new generation of consumers increasingly diverge from traditional news programs?

These emerging news providers might also start to provide new forms of competition for TV and radio broadcasters, and the advertising revenues that accompany such content.

Or competition for the advertising dollars might come from the newer, but increasingly powerful online search companies – the Googles, Yahoos and MSNs. *Advertising Age* is now predicting that the advertising revenues of Google and Yahoo will this year match those of America’s three largest televisions networks, ABC, CBS and NBC.

No wonder then that Bill Gates is forecasting that within five years the internet will attract $30 billion in annual advertising revenue – equal to the entire advertising revenue of the world’s newspapers.

The upshot of all these changes is that in the future a media market might be defined by the content, such as, for example, classified advertising, or even just employment advertising, rather than the medium used to convey the content.

In other words, the ACCC won't simply be saying, "one newspaper, one radio and one TV" doesn't amount to a substantial lessening of competition. In certain markets, that may no longer be the case. Interestingly, I notice a News Limited executive was recently quoted as emphasising their role as a 'content manufacturer' – not a newspaper company, not a TV company, but a *media* company.

In our market analysis, we might increasingly be focusing on markets such as classified advertising, maybe even markets as small as classified advertising for jobs, for motor vehicles, for real estate and display advertising.

A substantial lessening of competition in any one market could raise implications under Section 50 and be possible grounds for us to intervene.

Now, some have suggested this would amount to a de facto cross media ownership rule. This is entirely false. It is no different from the way competition law applies to every other industry, and there is no reason why it should not apply to the media.

Nor should it be assumed that the markets we will be looking at will be narrower than the conventional media markets. The technological developments I referred to earlier may mean that individuals and households will have a much wider range of choice in the ways they obtain the news and entertainment they are seeking.

Hence while we may focus on a market such as classified advertising this could be classified advertising provided through the print media, internet, mobile phone, TV, etc. The content delineation of a market may be narrower but there could be many more mediums used to convey that content than has been the case in the past.

The way in which media markets are defined will inevitably change. However, the new market definitions could be either broader or narrower than the conventional media market definitions. It is also the case that the impact of convergence and technological developments on media market dynamics and market definitions may be much sooner than many might expect.

Conclusion

On September 16 next year it will be just 50 years since Bruce Gyngell told a few thousand people in Sydney "Good evening and welcome to television". It sparked a revolution in Australian information and entertainment that within a few decades had effectively killed off the music halls and local cinema and signalled the end of the afternoon newspaper.

Now we are at a point in time where technological change and convergence could once again change the way consumers access news, information and entertainment.

The question for regulators and government alike is do these technological developments result in:

- a consequent diminution in the importance and relevance of traditional modes for conveying information
- the need for a significant re-examination of the relevant markets affected by acquisitions in the media
- an answer to concerns that reduced regulation of the media will lead to diminishing diversity of news and information services
- the increasing irrelevance of existing regulations impacting on so many sectors of the media.

In short, is the technology making many of our existing concerns about media regulation irrelevant?

These are questions that will need to be addressed by policy makers and regulators as we face the inexorable impact of new technology on consumer demands and preferences.

As I've made clear today, it is not the job of the ACCC to decide whether it is better for people to access their news and entertainment through the TV, or ADSL2+ or fibre or wireless or even through the mobile phone.

But it is our job to ensure that existing players not be allowed to use their market power to close down new forms of competition, and that, as far as possible, it be left to consumers to decide what form this revolution takes and what services and content they wish to access.