



Commercial Radio Australia
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*Radio's future in a new media
landscape*

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Introduction

In all the excitement about where television and the internet are headed, someone seems to have forgotten about the trusty wireless.

We have always regarded radio as one of the three traditional pillars of the media alongside television and print, which we rely on to deliver our news, entertainment and information.

Like its two stablemates of the mass media, radio is undergoing a revolution that while somewhat quieter than the rest of the media, nevertheless has profound implications for what we listen to, how we listen to it, and increasingly when we choose to do so.

Podcasting, convergence and the emergence of alternative delivery of radio-like content are promising to redefine the listening experience, and with that come issues such as the control of content, regional diversity and how advertising is likely to be affected. Digital radio is also on the horizon and trials are already underway ahead of the start of services in 2009.

At the same time we find ourselves in the middle of a vigorous national debate about media law reform and legislation is being formed that may also affect the rules surrounding foreign and domestic ownership.

This legislative upheaval promises to draw a number of regulatory bodies, including the ACCC, into a more active role in adjudicating over media deals.

I'd like to take a look today at how some of these technologies and developments are impacting on our radio and broader media sector, and how bodies like the ACCC are working to ensure that at the end of the reform process it is consumers that remain the winners.

Convergence – reinventing the wireless

When 2BL crackled to life with the first regular commercial radio broadcast on the evening of 13 November 1923, it marked the start of Australia's infatuation with radio.

It has been a medium so successful that there are estimated to be nearly twice as many radio receivers in this country as there are people.

Like 1923, technological change has once again landed on our doorstep and is promising to shake up many of our well-worn media habits.

The internet is firmly established in our lives, and has put a deposit on the future by offering to open doors to vast amounts of new content previously unavailable.

According to ACCC monitoring, in 1996 just 19% of households had the internet –in 2006 the number is 67%. In the 12 months before March 2006, the number of broadband services increased by around 1.4 million to reach a total of around 3.5 million – double the number of pay TV subscribers.

New infrastructure, including higher speed mobile networks, are helping to overcome many of the technical difficulties that have prevented the internet delivering services such as on-demand video or television and streaming content.

Already internet radio, which is much less data-intensive than video, has become well established, and listeners to ABC stations such as Triple J can now listen to many of their favourite programs on demand at a time of their choosing. Nightly requests for music no longer come just from listeners within broadcast range – increasingly they also come from ex-pat Australians in places like Mongolia or Pakistan, listening via the internet. Of course it works both ways, and Australians are now just as likely to be tuning into their favourite radio programs in the UK, US or Asia.

Newspapers are acting more like televisions through their websites, television stations are using their websites to eat into traditional newspaper territory, and through the internet and the introduction of digital services, radio is encroaching into the markets of both its competitors.

While radio has traditionally been the only widely available source of mobile 'real time' entertainment, news and information, its dominance in audio media is being eroded by the development of wireless technology which can deliver 'real time' content to devices such as laptops, 3G mobiles and digital radios. For example, even Melbourne-based subscription-funded community radio station Triple R streams its content worldwide over the internet.

The development of portable devices that can store large volumes of audio files and play them with an impressive sound quality, combined with the ease with which audio files can be shared between users, has required the music industry to reconsider the way it promotes and exploits its musical creations.

These same devices are also fuelling the popularity of podcasting, which is enabling consumers to 'time-shift' their favourite radio programs or enjoy made-for-podcast content that previously would never have got an airing. For example, The Ricky Gervais Show, developed exclusively for podcasting by the creator of the hit UK comedy The Office, has become the most downloaded podcast to date. Meanwhile, ABC radio offers regular podcasts from around 110 programs from a range of stations, such as Radio National, Triple J and local radio.

In fact, the podcasting phenomenon is so mainstream that the New Oxford American Dictionary declared the term 'podcast' the 2005 Word of the Year.

Meanwhile, research by the Carnegie Corporation of New York suggests that the ways in which younger people are accessing what we call 'news' is also 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.

Not only is the internet surging up the list of most commonly accessed sources of news for 18- to 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.

With the immense resources of the internet at their finger tips, consumers no longer have to rely on a limited number of information sources provided by the typical media gatekeepers such as newspapers, free-to-air television networks or radio networks.

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 way that it is created. 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?

Digital radio

While radio does sometimes get forgotten in all the hyperbole about internet television, digitisation and blogging, it may in fact get the jump on television when it comes to new technology.

As you will all be aware, the Commonwealth Government has set down January 1 2009 as the launch date for digital radio. While there has been some debate about whether this technology will still be fresh by the time it becomes available, networks around the country are beginning to invest around \$300-\$400 million to get new services off the ground.

What it will potentially offer is not only a crystal clear, CD-like listening experience, but the ability to pause and rewind live radio. Additional information, including possibly images will be displayed on digital radios. Advertisers too may be given new opportunities to reach audiences by sending images of their products alongside content, and scores could be displayed on the radio while listeners enjoy the latest cricket test match.

Time shifting has already found its way into television to a limited degree with the take-up of hard disc-based recorders, but with the exception of a few fledgling services, on-demand programming is still yet to make its mark.

Already car manufacturers are looking at introducing digital radios into their upcoming models in time for the official start date, and some Volvos in Australia are already equipped with digital radios.

Of course as a report by PricewaterhouseCoopers noted earlier this year, evolution of MP3 players and 3G phones may take some of the sparkle away from the launch of digital radio.

But indications are that predictions of the death of the newspaper, the radio, and indeed Mark Twain, might prove to have been a little premature.

A report released earlier this year at the Australian Broadcasting Summit showed 75 per cent of Australians were very or quite interested in purchasing a digital radio within their budget, and for the critical up-coming 18-24 demographic, that figure rose to 84 per cent.

Research into radio effectiveness by consultancy Millward Brown also found that when radio is added to the media mix, it increases web hits by 60 per cent. That research also found that one in five internet users listen to radio at the same time they are on-line.

It is important to remember that unlike analogue television, analogue radio is likely to stay with us for many years, well beyond 2009. There may be a slower migration than some might predict, but that will also allow time for prices of digital devices to come down and for consumers to become more comfortable with the technology.

Of course Macquarie Radio Network director Mark Carnegie might also be right when he predicted that, "By the time 2009 comes, nobody will be thinking of digital radio – [Apple chief executive] Steve Jobs will have merged the iPod with a mobile phone and given it an internet connection".

But then no-one saw the rise of the iPod coming, and picking winners can be a dangerous strategy, and not one that regulators like the ACCC take part in.

What technology will mean for consumers

New technology can be a powerful and positive force for change. It allows new entrants into markets that have previously been closed due to the limitations of old technology. It means more choice for consumers. The ACCC clearly has an important role in ensuring the availability of this new technology is not unduly hindered by the anti-competitive behaviour of incumbents who consider it a potential threat to their market position.

It also means that media market boundaries may change over time. Some market borders may expand as firms formerly in different markets find themselves competing; some markets may become narrower.

It may be that one day, traditional retail services such as individual newspapers, television stations and radio stations are no longer so critical.

Rather, what may become more important is having content that people want to access; and having a variety of ways to deliver it to the customer across a communications network.

What does this all mean for advertisers?

There are indications that audiences for traditional media platforms are declining. However, when visits to related new media provided over the

internet are included, the situation often does not appear to be so dire. For example, radio audiences in Australia appear to be falling. However, some stations, including ABC Radio National and Austereo's TripleM, have found that the availability of podcasts of their programs has strengthened audiences.¹

One estimate suggests that 30 per cent of the time Americans spend consuming media is via the internet.² On the face of it, this alone suggests a degree of demand side substitutability between different types of media content through which advertisers can reach their target audiences.

As you would expect, advertisers are responding to these trends. According to Roy Morgan research³, expenditure of internet advertising revenue grew by 60 per cent from 2004 to 2005, and at \$620 million, surpassed that spent on cinema, pay TV and outdoor advertising combined. Expenditure on internet advertising is expected to come close to the \$1 billion mark this year.

PricewaterhouseCoopers estimates the fastest growing component of the global advertising market is online, which is expanding more than four times faster than television.⁴

The report goes on to predict that most growth opportunities for astute advertisers will be associated with niche media, where content is targeted at specific interest groups, or 'lifestyle media', where content is on-demand, interactive and involves a sophisticated combination of video, audio and text.⁵ Reaching these audiences will require different approaches to those used in mass market advertising.

Of course, the control and distribution of premium content, such as high-profile sporting events, will remain important. It is just that advertising associated with this content may not be the only, or even the best, way to reach target audiences.

Keeping a handle on control

So if we don't know where the internet is heading, and we aren't sure what sort of technology is going to be the next iPod, how do we go about trying to ensure consumers don't suddenly find that their news, information and entertainment has become tightly controlled by a small group with little interest in competition?

The answer lies, I believe, is turning our attention away from the various ways of receiving content, and instead focusing on who controls that content.

¹ 'Rating paradise lost', Daily Telegraph 1 April 2006.

² 'Imagining the Google Future' (1 January 2006) CNNMoney.com (http://money.cnn.com/magazines/business2/business2_archive/2006/01/01/8368125/index.htm).

³ Quoted in 'Surfing the net to catch the second ad wave', the Australian Financial Review, 10 August, 2006.

⁴ *The Rise of Lifestyle Media – Achieving Success in the Digital Convergence Era: An International Perspective*, 10 (2006) PricewaterhouseCoopers.

⁵ *The Rise of Lifestyle Media – Achieving Success in the Digital Convergence Era: An International Perspective*, 14 (2006) PricewaterhouseCoopers.

Media companies, eager to deliver eyeballs to their advertisers, will always require one common element to draw an audience – compelling content. Without it, it doesn't matter how clever your mobile phone, radio, computer or television is, it won't have much appeal if there's nothing worth tuning in to.

Who controls the content?

A key function of the ACCC is to help create the foundations for a highly competitive environment in all aspects of telecommunications.

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 if the development of new technologies and networks are impeded, or if existing network owners obtain exclusive control of the content that could be offered on the new networks.

Increasingly, radio, video and TV services will be provided together with internet and traditional telephone services.

As online broadcasting becomes reality, competition for current TV or radio stations is just as likely to come from new business models using a range of technologies.

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.

Some content is so compelling to audiences, and thus so attractive to media companies and valuable to content owners, that it is subject to exclusive agreements. Such arrangements are not necessarily anti-competitive. Indeed, free-to-air broadcasters have traditionally competed heavily for exclusive rights to content as a means of differentiation amongst themselves, without raising competition concerns.

It is critical 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 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 1974* (the Act) recognises that exclusive contracts have the potential to be anti-competitive. Sections 45 and 47 prohibit such arrangements where they will result in a substantial lessening of competition.

In its oversight of the media, the ACCC will seek to ensure that media proprietors cannot lessen competition or inhibit the emergence of new players or products by tying up access to compelling content.

The Government's New Media Framework

I won't detail the changes that were adopted by Federal Parliament yesterday. You will of course be very familiar with them, in summary at least. In particular the changes involved

- relaxation of the restrictions on cross-media and foreign ownership; subject to there remaining no fewer than five independent media groups in metropolitan markets and no fewer than four in regional markets;
- restricting one company from owning no more than two of the three media platforms of radio, television and newspaper businesses in the same market, both regionally and in the cities;
- regional radio stations being required to air a minimum of 4.5 hours of local content a day and at least 12.5 minutes of local news, five times a week.

There has been much debate about what these changes will mean for the Australian people and for the media industry in this country and what role the regulators, such as the ACCC, will have.

I note there has been particular concern from the radio industry that the changes may be an excessive burden on smaller regional radio stations.

I must emphasise that discussions about how the law should be framed, and whether the reforms should in fact go through at all, are not issues for the ACCC to comment on. Our role is to consider how competition will be protected should the Government decide to proceed with that change.

Regardless of an ability for a media merger to satisfy the five/four and the two out of three tests (both of which will be administered by the Australian Communications and Media Authority (ACMA), media mergers and acquisitions would also remain subject to section 50 of the Act, which is of course where the ACCC comes in.

I would like to try and give you some broad guidance on how we might approach these issues, especially as they relate to media mergers.

The ACCC released a paper earlier this year that set out guidance on the likely approach we would take in assessing whether a cross-media merger raised competition issues of concern.

Some readers of that paper might be disappointed that it provides guidance only, not hard and fast guidelines or answers to any of the hypothetical questions about particular media mergers that have been thrown around in the press.

This is because it would be highly inappropriate for the ACCC to attempt to pre-judge any hypothetical media merger. As is the case with all merger analysis, the individual circumstances and competitive implications of a media merger proposal will need to be considered during a comprehensive and public informal clearance process. This process provides the merger parties and all other interested persons with the opportunity to submit their views on proposed mergers to the ACCC. It is only after having undertaken such a

process that the ACCC can conclusively identify the relevant markets, and assess the impact on a proposed merger on competition in these markets.

The ACCC also recognises that the media sector, like all other sectors of the economy, has its own unique characteristics that will need to be considered in a merger investigation. The ACCC's informal clearance process enables these characteristics to be identified and given proper weight when determining whether or not a merger is likely to substantially lessen competition.

What the ACCC can do, is outline what are likely to be important considerations when assessing mergers.

Media merger guidance

Clearly, rapid advances of technology have implications for the way the ACCC assess media mergers and there is still not a clear picture of how the sector will develop. Companies that may once have been thought of as a newspaper or radio station, may in the future need to be considered more as 'media companies'.

The ACCC's media paper provides broad guidance on the Commission's approach to assessing future media mergers. This paper is available on the ACCC's website⁶.

As I mentioned at the outset, in the past the ACCC has regarded the media as a number of distinct pillars – free-to-air television, pay television, radio and print. Those products have been thought of as having little overlap in content or advertising.

We can no longer simply take that view in light of the technological convergence in the media sector.

Moreover, as traditional media boundaries blur, focus may shift from the way information is delivered to the actual products media companies offer. In this regard, there are three main categories the ACCC will consider as part of its assessment: the supply of advertising opportunities to advertisers; the supply of content to consumers; and the acquisition of content from content providers.

Other more specific products – such as premium content; classified and display advertising; and the delivery of news, information and opinion – may also be critical when considering particular mergers.

Having said this, the general framework for merger analysis will remain the same for media mergers. Taking supply of content as an example, if the price of one source of content rises, or its quality falls post merger, the question is the same one that arises in all mergers – what are the real alternatives for consumers?

But technological developments in the media sector will mean that we are asking these questions in new contexts. For example, when considering classified advertising, the ACCC will need to assess the degree to which

⁶ www.accc.gov.au

online advertising provides a real alternative to print classified advertising and vice versa.

Where new services develop or look likely to do so in the foreseeable future, we will take them into account in assessing media mergers and acquisitions under the provisions of the Act. But we won't base our decisions on mere speculation.

And at all times, the ACCC will be looking closely at any content, advertising or news and information markets where concentration appears to be occurring.

Not only in Australia as a whole, but also in regional markets, as the Act requires.

Regional markets

Radio services have been at the centre of much of the current debate about threats to diversity in rural and regional areas. There are provisions within the Act which may come into play when assessing media mergers in those areas.

Section 50 of the Act specifically requires the ACCC to consider the impact of proposed mergers on markets in regional Australia. Consequently, the ACCC will take into account the differing circumstances in rural and regional Australia compared with urban areas. Consumers in regional areas rely heavily on local suppliers of news and information, as compared to consumers in urban areas who have greater access to a variety of media outlets, including new media. Competition in those local markets may be more vulnerable following a merger than competition in the larger cities. As such, the ACCC will continue to consider implications at the local and regional level when assessing mergers proposed for those areas.

Looking forward – “likely to substantially lessen competition”

As a fundamental part of assessing media mergers, the ACCC will base its assessment on what a market is likely to look like in the foreseeable future. Analysis will be based on hard evidence, not hypothetical views of what the future might look like. So, for example, media mergers that, based on the best current evidence, are likely to substantially lessen competition will not be cleared on the basis of mere speculation about future technological developments.

As markets continue to evolve, so too will the ACCC's analysis and the factors it takes into account. The ultimate test however will remain: whether a merger will lead to a substantial lessening of competition.

Conclusion

For those of us with a passionate interest in the media and the way it is evolving, it is an exciting time and no doubt many of the predictions we make now about the media's future will be debunked and replaced by technologies and trends we are yet to consider.

But one thing is clear, and that is change is coming, whether we like it or not. Some of the incumbents will survive and prosper, others will struggle to adapt and find their commercial niche in this new environment.

The ACCC will continue to monitor this evolution carefully, but will also be trying to look beyond the technology to the deeper issues of content, services to customers and ensuring new competitors are not locked out of competing by artificially imposed barriers to entry.

The Trade Practices Act has been with us for some time now, but it remains a robust piece of law that has stood the test of time. I believe it will be a crucial tool at our disposal as we attempt to navigate our way down the new media highway.

I look forward to returning to this forum in a few years' time to reflect with you all on how we went about successfully laying the foundations for an explosion of new content, services and competition.

Thank you.