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## **Australian Media Policy Under Albanese's Labor Party\***

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In the aftermath of the May 21, 2022 Australian Federal election, 'the big fail' of the Murdoch media to have any impact on the result has re-ignited questions about the ongoing influence of the global right-wing news organisation. The election outcome challenged, counter-intuitively, the well documented stranglehold of News Corp over the news agenda. So how might we explain this situation? Well, in part, the answer is that the bad odour surrounding the Morrison Government was simply overwhelming – and the public recognised a flawed character when they saw one. Despite the generally uncritical media coverage of the Morrison Government, there had been one too many rorts, scandals and desperate stuff-ups right up to election day, for it to survive for another term.

The conservative parties' loss was said to represent 'the Coalition's worst result in 70 years, in which it lost 18 seats, including six heartland Liberal seats to independents' (Karp, 2022). Yet with the new Albanese Government having the narrowest majority of only 50.99 percent in the House of Representatives, or 32.6 percent of the primary vote, it is probably also true that at least some of the News Corp agenda cut through to certain parts of the electorate. For example, in Queensland, where it owns the bulk of traditional and online newspapers, it dominated the agenda for older more conservative news consumers and recycled many of the standard anti-Labor stories around mining, taxes, border security and race, and foreign relations. However, it was simply beyond the reach of the News Corp election campaign messaging to sway enough voters under 50.

A scan of post Federal election diagnoses reveals some common narrative elements: the Morrison Government was deaf towards climate change; it had shown a failure of leadership during the COVID 19 crisis; and, it had failed to deliver for younger voters on home ownership and rental affordability. Consequently, many under 35 had used their votes as a protest. A submission by the youth wing of the Liberal Party to the post-election review of the government's failure at the ballot box confirms climate change inaction and the failure to recruit women or deliver an anti-corruption commission as additional reasons for their loss (Karp, 2022).

## **A Murdoch Royal Commission**

The majority report of the Senate Inquiry into Media Diversity, chaired by Green Senator Sarah Hanson-Young, called for a judicial inquiry with the powers of a Royal Commission into concentrations of media ownership, including Murdoch's News Corporation. This had been initiated in response to the 500,000-signature petition to the Australian parliament seeking this inquiry. The Senate report found Australia's system of media regulation 'no longer fit-for-purpose' and recommended a single, independent media regulator (Parliament of Australia, 2021). Not surprisingly, the senior representatives of News Corp were not persuaded by the call for a Royal Commission into their operations in the evidence they gave in hearings.

Since the Senate Report's findings have been released Ex-PM Kevin Rudd has kept up the pressure through his leadership of the lobby group 'Australians for a Murdoch Royal Commission'. Their activities continue to monitor the impact of the Murdoch monopoly ('a cancer on democracy') on Australia's concentrated media landscape, and the advance need for a Royal Commission to identify potential remedies.

Rudd has repeated the comments he made to the 2021 Senate Inquiry into Media Diversity remarking that 'in my state of Queensland nearly 100 per cent of the print readership is owned by the Murdoch media empire' (Parliament of Australia, transcripts, 2021, p. 2). Railing against the undemocratic monopoly power of the Murdoch media Rudd argued:

...media monopolies also destroy alternative media voices. I'm old enough and ugly enough to remember when there used to be another paper in Brisbane. It was called the *Brisbane Telegraph*. Murdoch bought that back in the late eighties, under a solemn promise that it would be preserved, perhaps under a different title. They rechristened it the *Brisbane Sun*, and the paper, which had been around for a hundred years, was unceremoniously killed about five years later – gone – leaving the Brisbane *Courier-Mail* as the effective monopoly paper in town. We've seen that pattern elsewhere. We've seen it most recently and spectacularly with Australian provincial newspapers. The decision by the ACCC to allow Murdoch to buy APN in 2016-17 meant you had in Queensland a 100 percent near monopoly emerging. But, under the cover of COVID last year and despite the Murdoch empire's promises to enhance their regional and local coverage, something like 112 of these papers across the country were shut down, so local communities no longer have local papers, and they are being starved of local news (Senate, ECRC, 2021, p. 2).

His submission documents a litany of adverse impacts to Australian society and its key institutions:

Murdoch operates a kind of protection racket for those individuals in business and politics who are considered useful to the Murdoch organisation's commercial or political interests. This can take the form of positive coverage or, worse still, the suppression or non-investigation of negative stories. (Rudd, Sub. 52, p. 5).

In a post-election article for *The Conversation* Rod Tiffen asks, 'Will News Corp change its approach after Labor's election win?' He answers his own question with 'not if the US example is anything to go by' (Tiffen, 2022). He has previously argued in his submission to the Senate Diversity inquiry in relation to the Foxification of News Corp that '[s]everal of the state elections (since 2010) have demonstrated the ineffectualness of News Corp campaigning:

In such a hierarchical organization, the most important influence is the person at the top. The pressures towards internal conformity, joined with the arrogance stemming from external monopoly advantages, has produced an increasingly mediocre organization, and a hardening of the editorial arteries. The 'Foxification' of News has manifested itself in several ways – a stable of columnists whose market appeal is their stridency, and whose main mission is to grab attention and to reinforce prejudices (5) ... It would be bad for any single organization to have the dominance that News Corp has in the Australian media. But for the Murdoch press to enjoy such a pivotal role is particularly disastrous (6).

In regard to manipulation of the news agenda in Australia Rudd cautions us to 'Watch carefully the American template' and the abuse of monopoly power by Murdoch (Sub. 52, par. 42). Tiffen similarly locates News Corp editorial influence on Australia's polity in their tabloids and Sky News where a shrill commentariat spruiks climate change denying messages to shape the wider media agenda. Of primary concern is the spreading influence of the far-right megaphone, Fox News. That brand's dangerous power lies in its ability to delegitimise democratic processes and fuel ongoing polarisation in the electorate.

In his submission to the Senate Inquiry into media diversity, Rudd's account of the relations between the Murdoch media and the Liberal party continues to resonate. He argues:

The Murdoch monopoly's dependence on the Liberal Party for political favours (for example, on the NBN) has consequences for the Labor Party which has been subjected to a systemic campaign of smear and delegitimation as a party of national government' (Par. 27. Sub. K. Rudd).

The available information regarding the activities of the former PM, Scott Morrison reveals a character contemptuous of Australia's parliamentary democracy. It has come to light that Morrison, by swearing himself into five additional areas of ministerial responsibility—for Health, Finance, Treasury, Home Affairs and Resources—was effectively intending to act by dictatorial fiat as required. Few knew of these arrangements other than the Governor-General and one or two of the affected Ministers, whose portfolios were being commandeered. It emerges that Morrison had disclosed these events contemporaneously to his friend, Simon Benson, a political journalist for the Murdoch-owned national daily, *The Australian* (who has recently released a co-authored book on the pandemic called *Plagued*). Benson, we now know, preferred to keep these events quiet as a scoop for the new book rather than report them in the public interest (Middleton, 2022). These events are consistent with the overall collusion of favours between the conservative Liberal Party and the right-wing Murdoch news apparatus.

## Future Regulation

The Australian Competition and Consumer Commission (ACCC) has become a far more prominent actor in the Australian media regulatory landscape. Competition law and policy dominates traditional media specific regulation, and is aligned with broader neoliberal ideological frameworks. The ACCC's ground-breaking Digital Platforms Inquiry Report in 2019 recommended significant, holistic reform to address the dominance and market power of the leading digital platforms and their impact on Australia's economy and society and on public interest journalism. However, in this process, questions of ownership and voice pluralism have been at best neglected and at worst actively avoided.

Over the past decade successive regulatory reviews in Australia under the theme of media convergence (Dwyer, 2010) failed to redress imbalances between legacy media and the largely unregulated and increasingly influential digital platforms (Flew and Wilding, 2021). Calls for adapting media laws and policies to counter the consequences of market concentration have fallen on deaf ears. Priorities are likely to remain focused on categories of aberrant content within the contemporary platform environment, rather than on the more complex concerns raised by voice plurality (particularly in the uncharted seas of algorithmic visibility and the personalisation of news).

The previous government adopted the ACCC's recommendation that the digital platforms comply with a mandatory code to 'share revenue' to fairly compensate news media business for their content, with the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021* passing in parliament. After originally refusing to cooperate and actively campaigning on their own platforms to derail the new laws, the tech giants eventually capitulated.

So, can we expect any significant changes to regulatory settings from an Albanese Government? The new Communications Minister, Michelle Rowland, has signalled her government's intention to take a more interventionist approach to regulation of the big media-tech corporations, in relation to the current Department of Treasury review of the News Media and Digital Platforms Mandatory Bargaining Code (NMBC). She has recently made the observation that 'Media policy in this country has been 'stuck in a rut' of unambitious agendas and failed execution.' (Rowland, 2022).

Former ACCC Chair, Rod Sims, notes that, since the code's introduction, around AUD200 million has been channelled to major news publishers in Australia from Facebook and Google. Yet there is little understanding of where this money has been invested or how long it will flow for, with some suggesting it has been used to pay down debt, rather than resource public interest journalism (PIJ). Given the planned exodus of Facebook from their supply agreements with major news publishers in the US, this could easily happen in other markets. There is speculation that any decision to trigger forced arbitration under the NMBC in Australia by designating Facebook will lead to their withdrawal from news in the Australian market. Facebook has threatened to do so in Canada, as they did in Australia in February 2021, when the Canadian version of the NMBC was being debated.

Yet there's also a real sense that public policy resulting in regulatory interventions such as the NMBC is failing to take account of sustainability in PIJ, both in terms of what it recognizes or rewards, and in terms of a life beyond a single cycle of commercial agreements.

The recently released review of the Code by Treasury supports that diagnosis. The terms of reference were to 'assess the extent to which the Code, during its first year of operation, has delivered outcomes consistent with its policy objective; and identify potential improvements to the Code' (NMBC, Review). The review considered views from their stakeholder consultation and assessed the extent to which commercial agreements between digital platforms and Australian news businesses, and whether their designation and the registration provisions had 'delivered outcomes consistent with the policy objectives of the Code'. Observers of this code review were expecting it to focus on the options of 'to designate' or 'not to designate'. In effect, the new law remains an idle threat until one or other of the US-based platforms is designated. The principal architect of the new laws, and former ACCC chair, Rod Sims believes the time has arrived for designation of Facebook (Sims, 2022).

When the review became public in December, some deft maneuverings saw the department of Treasury authors comment, regarding this expectation of designation among some stakeholders that:

As foreshadowed in the consultation paper released on 1 April 2022, the review is separate to the process in the Code for designating digital platforms and has not therefore considered whether individual digital platform services should be designated. The Minister may make public statements about potential designations or initiate the designation process at any time, independently of the review, should developments warrant it. (Treasury, p.14).

They also note that negative consequences may flow if designation was structured according to certain groups of news businesses whereby it:

... could mean that funds committed under the agreements may no longer be paid. Remuneration issues for many news businesses would then need to be resolved – in at least some cases, starting afresh – through the Code’s negotiation, mediation, and arbitration processes. These would not necessarily result in all registered news businesses obtaining remuneration, nor would they guarantee that those currently with agreements would receive the same funding they do today. (p. 15).

Instead, the review recommends that the Government should consider directing the ACCC to prepare reports on how platforms are performing in terms of news delivery, and the ongoing power imbalance between platforms and news businesses. It also recommends ‘whether ACCC information-gathering powers could be used to obtain information about commercial agreements between digital platforms and news businesses.’ (p.17).

Outside observers of this process should be forgiven for thinking that such recommendations are very likely to be overtaken by the usual warp speed developments in this space. This can be seen, to take just one example, in the case of Twitter, when the platform’s ownership recently changed hands to Elon Musk, and it subsequently has gone off the rails.

We are witnessing the transition to a media landscape dominated by broadband internet distribution, US-centric tech behemoths Google, Meta, Apple, Amazon and Netflix, along with Australia’s traditional media owners. In the latter context, it will be recalled that three companies – News Corporation, Nine Entertainment and Seven West Media – control over 90 percent of the news market (Dwyer et al, 2021, p. 60). And so we arrive at the usual point of asking, ‘which measures can be taken to decrease this ongoing march of concentration and the attenuation of media voices’?

There is clearly an urgent need for a revitalised media policy agenda to counteract platform power and concentrated media power as clear and present risks to public interest journalism in Australia, and globally. In a forthcoming book (with Derek Wilding), we argue that better monitoring frameworks and a new toolkit are needed to recognise risk situations arising from concentrated media ownership across legacy and new digital media platforms. In this context it was promising to see that this is actually the approach under active consideration by the government in their News Media Assistance Program, scheduled to be rolled out in early 2023, ‘to secure the evidence base needed to inform longer-term news media policy interventions’ (Rowland, 2022). The media regulator, the ACMA, has recently announced that they are restarting a pre-pandemic consultation ‘The ACMA has today released a consultation paper seeking feedback on a ‘news measurement framework’ to monitor levels of diversity across Australia’s contemporary media landscape.

However, securing the public interest in a vibrant and sustainable news media sector will require that merger decisions assess whether there is a ‘reduction in diversity’ via a public interest test. This will require a more expansive policy focus than in the past. Consideration should be given to the sustainability of local businesses; the encouragement of original and local news content; quality of content, in terms of the promotion of news standards; and modes of delivery and consumption, including the ‘automated curation’ of digital platforms. We argue that the media regulator should formally conduct the oversight of algorithmic changes and their impact upon news media. There is an urgent need for inclusion of indicative thresholds in the baseline and subsequent assessments of media plurality, and new metrics for assessing cross media voice concentration. As Schlosberg and Freedman (2020) have argued, legislated thresholds would bring greater clarity and certainty to debates regarding ‘sufficient’ plurality and the ability of regulators to assess plurality outside of specific merger situations.

On July 31, 2022, Prime Minister Albanese, speaking at the GARMA festival of traditional cultures in Arnhem Land in the Northern Territory, announced the Australian Labor Party’s support for an *Indigenous Voice to Parliament* enshrined in the Constitution. He called for a referendum, noting it will have a similar significance for Australian society as the Uluru Statement from the Heart, the Apology speech and the 1967 referendum giving Indigenous people the equal right to vote. Not only is this a critical step forward for Australian society in terms of relations with First Nations peoples, but it also has the benefit of renewing and broadening conceptions of ‘voice’ plurality. The damage caused by concentrated media voices to democracy is not always easy to fully understand; however, this renewed focus on ‘voice’ certainly assists in linking power, voice and democracy. It foregrounds the need for a range of societal voices to be heard in order to advance the overall equity between groups and reduce destructive power imbalances.

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