

Environment and Communications Legislation Committee
The Senate
47th Parliament of Australia
Parliament House
Capital Hill, Australian Capital Territory, 2600
Australia

Submission for the inquiry into the Murdoch Media Inquiry Bill 2023

Dear Senators,

The freedom of expression, including the freedom of the press, is a fundamental pillar in any reputable and vibrant democracy. It enables public scrutiny of the actions of governments and holds them accountable to their citizens, the peoples whose livelihoods are impacted by their policies and decisions. It also facilitates public discussion and debate of ideas on how we, the citizens, collectively shape the environment and systems we live in, and how we represent ourselves on the global stage.

However, **rights and freedoms are not unlimited**. In fact, it would be paradoxical if all fundamental human rights and freedoms were unbounded (for example, the freedom of the press and the individual right to privacy are contrary and opposing rights). Case law domestically and internationally have established the necessity to decide the limits as to where one right ends and another begins, and this principle has been recognised and incorporated into human rights legislations both in the Australian states¹ and the Commonwealth realms².

The freedom of the press, in particular, comes attached with it important responsibilities: the responsibility to report the facts, to not mislead, to be fully transparent with their audience, to present a range of perspectives in context without one dominating another, and for the media to conduct themselves with the highest standard of journalistic integrity and rigor. When the media abandon these responsibilities, public trust in them is eroded and people will turn to other sources to keep up with current events, plenty of which do not have the same high standards that are expected of journalists. It is a damning indictment on the state of traditional news media when a significant proportion of Australians are turning to parody and satire outlets as a primary source of honest, legitimate news.

I do not claim to be an expert in matters relating to journalism, communications or the media, nor am I associated in any way to these institutions — I am merely speaking as an ordinary citizen who, like everyone else, rely on the media to keep up to date with current events. However, it is clear that many ordinary Australians share the same view that **the Australian media landscape has become fundamentally broken**. House of Representatives petition EN1938 requesting a royal commission

¹ For example, subsection 7(2) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic): “A human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom...”

² For example, section 1 of the *Constitution Act, 1982* (Canada): “The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”

into media diversity, presented in the 46th Parliament in 2020, currently remains Parliament's most-signed electronic petition at 501876 signatures. The resulting Senate inquiry conducted by the References Committee received 5068 submissions, indicating the extraordinarily high level of public interest, and **the Committee has recommended that a judicial inquiry be established** into this issue so that a detailed investigation can be properly and independently conducted. Yet as of today, the government has not acted on the recommendation.

We are seeing the consequences of inaction on the issue at this very second. For example, public debate over the Indigenous Voice referendum has become so toxic because the media are disproportionately amplifying and sensationalising claims that the length of the Uluru Statement from the Heart is multiple pages long, even though that can demonstrably be proven false if journalists were to do a bit of simple digging to verify the claim, as is part of their responsibilities. Regardless of whether one supports or opposes the Voice, the result of such dereliction of duty is that all of us, as citizens, are making important decisions about our future based on inaccurate, misleading or unreliable information, or just on pure emotions, which is not what a healthy democracy should be.

The ABC's weekly media analysis program *Media Watch* has, especially in recent years, demonstrated plenty of instances where journalists and reporters across Australian media, including on the ABC, have failed to uphold their responsibilities to their audience, with one of the most common issues being reporters taking claims made by their guests and other people of public interest at face value without further inquiry or interrogation as to the validity or noteworthiness of the claims. Another commonly occurring shameful conduct is the paparazzi-like hounding of victims or alleged perpetrators of crimes, especially prior to a determination of guilt or innocence of the latter, and both of whom have a right to privacy during a stressful period such as this. While some of the program's opinions may be up for debate, I believe that the media conduct shown in the program is a very useful starting point and evidence base that will assist any proposed inquiry into the media.

Some may say that we can rebuke private media outlets who do so by going to a different outlet. However, that is nigh impossible to do when **we have a media oligopoly on Australian national and political news coverage**, made far worse in the remote areas of the country where they are likely to only have, or be aware of, one or two options. This is before considering the fact that **almost every media outlet in Australia is derelict in their duty** in some or many ways, or that the vast majority of Australian media brands, on paper, television or otherwise, are ultimately owned and controlled by the same few media conglomerates (i.e. News Corp, Nine Network and Seven West Media), which only provides the *illusion* of choice. The concentration of media outlets into the ownership of a miniscule number of private companies **enables their owners to wield excessive influence over policy, politicians and the public narrative** regardless of justifiability, ethics or practicalities of the issue. This is in addition to the **usual powers of oligopolies in stifling outside competition**.

This is, however, not to say that the media's investigative powers should be curtailed at all; some of the best quality news reporting in Australia comes from the ability of journalists, regardless of the media brand, being able to hold people and organisations of public interest accountable through in-depth investigative journalism, especially in circumstances of illegality or legal grey areas. It is even more impressive when journalists from multiple competing news brands work together to do so. A resolution to this issue must not impinge on the ability of journalists to conduct such investigative work but rather be supported by the legal system for doing so.

With that said, the Murdoch Media Inquiry Bill 2023 intends to establish, by legislation, a judicial inquiry into media diversity in Australia as recommended by the Senate's media diversity inquiry in 2021, and **I strongly support, for the reasons outlined, the establishment of such an inquiry**. As I am not a legal expert, I do not intend to comment on the specific details of the proposed model of inquiry other than that the commission must have, to the fullest extent possible, the power to investigate thoroughly, impartially and independently all relevant matters. However, I wish to propose to the committee for consideration potential topic areas that could be added to the terms of reference in clause 7 of the bill:

- **Clear and prominent labelling** of media stories, or parts thereof, as e.g. opinion, advice, promotional, advertorial, and/or whether a third party paid for the article (and the identity of the sponsor).
- The ethics of **the use of emotional language in news reporting** (particularly if they could reasonably be construed as factual) and in headlines, especially as a means for outlets to generate revenue ("clickbait"), or to sway public opinion towards one response or another ("sensationalism").
- The need for a **legally enforceable media code of conduct**, and for significant penalties, proportional to the size and/or reach of the media conglomerate³, to be imposed for breaches of the code, and for a staunchly independent watchdog to enforce the code.
- Any other possible topic area arising from my discussion in this submission.

Therefore:

Recommendation 1: I strongly recommend that **the bill be passed**, with any reasonable amendments that does not reduce or detract from the purposes and powers of the inquiry.

Recommendation 1A: If the government does not support the private senator's bill in its current form, I strongly recommend that the government, **as a matter of urgency, propose its own legislation for an independent inquiry**, with teeth, into media diversity in Australia with similar purposes and powers to the commission proposed in the bill, **or set up a royal commission to do so**.

Recommendation 2: I recommend that the inquiry be **extended to consider all Australian media outlets** (not just News Corp), with any reasonable and justifiable exceptions to the ABC and SBS as public broadcasters, **as well as media conduct**.

I thank the committee for their time and indulgence and hope my submission will assist you in your deliberations.

Yours sincerely,
Aaron

³ Akin to the penalties for breaching the General Data Protection Regulation in the European Union.