Foreign ownership limits on Australia's electronic media

Ross Jones argues that foreign ownership regulations are inconsistently applied, largely ineffectual, and have an adverse impact on Australia's media

Australia generally has had a long standing policy of welcoming foreign investment. Over the past few years the Foreign Investment Review Board, the government's advisory body on foreign investment policy, has relaxed many of its regulatory guidelines with a view to encouraging more investment from overseas. Many of those sectors which had considerable restrictions on foreign investment and ownership (for example banking and civil aviation) have been freed from many of the foreign investment restrictions. In other sectors, such as manufacturing, proposals by foreign interests to acquire Australian firms are automatically approved except where contrary to the national interest.

In the media industry, foreign investment in mass circulation newspapers is not prohibited under the *Foreign Takeovers Act* (1975) and there are no specific restrictions on foreigners owning magazines and periodicals. However limitation of foreign ownership and control of commercial radio and television continues.

The legislation

The *Broadcasting Act* (1942) placed limitations on foreign ownership and control of commercial radio. The justification for these restrictions was that they would ensure that foreigners were not able to control sources of internal propaganda. In the mid 1950's when the first commercial television licences were being issued, restrictions were also placed on foreign ownership of television licences. However, the justification given this time no longer was based on fears of foreign propaganda but a new fear: cultural aggression. Various amendments to the Act in 1960, 1965 and 1981 sought to clarify and re-interpret the ownership and control provisions. Thus while the Act stated that foreign investment in broadcasting and television is limited to 20 per cent of the issued capital with no single foreign interest being permitted to own more than 15 per cent of the capital, difficulties with defining what constituted foreign interests had allowed foreigners to exceed these limits.

For a number of years the Ten Network has had considerably more than 20 per cent foreign equity. In early 1990 both the Nine Network and the Seven Network sought substantial additional capital in the form of foreign equity. Bond Media, the then owner of the Nine Network, tried to bring in a foreign consortium that included the US television network CBS and the program supplier Paramount Communications. The receivers of the Seven Network, unable to find Australian buyers for the network, had hoped to find foreign interests to provide much needed equity for the network to survive.

However, Mr Beazley, the Minister for Transport and Communications, appears determined strictly to reimpose the limits on foreign ownership established in 1956. In May 1990 he said, "The Government believes it is vital that Australia's radio and television stations are owned and controlled by Australians because they are major outlets for political debate and the exploration of cultural identity". The measures he proposed would:

- limit individual foreign investment to 15 per cent;
- limit total foreign investment to 20 per cent;
- limit the number of foreign directors of a company holding a television or radio licence to no more than 20 per cent of the total;
- give any licensee with foreign ownership currently in excess of these new limits three years to sell down such ownership to comply with the new ownership limits;
- give any licensee with more than 20 per cent foreign directors 12 months to replace the excess with Australian directors.

Cultural heritage

The principal argument against foreign ownership in television is that Australia's cultural heritage will be placed in jeopardy if foreigners control the air waves. This argument implies that if foreigners control Australian television they will broadcast foreign programs and put Australia's cultural identity in jeopardy.

If this claim is valid, it suggests that Australians' sense of their 'Australianness' is so weak that it requires continuous reinforcement from jingoistic Australian television programming. Yet television ratings indicate that Australians prefer to watch Australian programs. The idea that foreign owners of Australian television stations would fill their program schedules with cheap foreign entertainment or biased news and current affairs programming is implausible in an industry that is highly responsive to consumer tastes and totally dependent on such tastes for its revenue.

In any case, the fear that foreign ownership of television would lead to reduced Australian programming is irrelevant while the content of commercial television broadcasts continues to be highly regulated. The Australian Broadcasting Tribunal (ABT) imposes considerable regulatory constraints on commercial television operators in Australia. Some of the more stringent requirements are Australian content in a range of forms prescribed by the ABT.

Even without such regulations Australian programming would still exist. Taxpayers support the public provision of broadcast services through the ABC and (to a lesser extent) SBS. The justification for such assistance to public broadcasting is presumably that the national public broadcaster can promote Australian culture and provide a range of programming distinct from that supplied by the commercial networks. Subsidisation of television production may be a more direct and efficient mechanism to promote Australian culture than restricting foreign ownership of the technology which distributes these programs.

In the case of SBS, the arguments of the opponents of foreign ownership appear to be contradictory. If Australian ownership of television is necessary to ensure that our national identity is nurtured, then surely any public support for the 'multicultural' SBS should be immediately abandoned. SBS provides a wide range of foreign programs and shows far less Australian programming than any of the other networks.

A further consideration is that foreign owners have the funds to invest in Australian programs. The existing network owners, burdened as they are with debt, may be less inclined to invest in expensive Australian drama than wealthy foreign owners. Actors

Equity claims that Australia makes drama programs comparable to those made in the United States for one-tenth of the cost. Foreign networks with local affiliates could take advantage of such cost differentials and increase local production. Foreign ownership of Australian networks could also facilitate the export of Australian programs, which could be broadcast on the parent company's overseas networks or sold independently to other foreign networks by its international distribution organisation.

Another argument against foreign ownership of the air waves is that television owners have excessive influence over news and current affairs because of the limited number of channels. Yet all Australian television networks currently use foreign sources for much of their overseas news. The major US networks - NBC, CBS, ABC, and CNN supply news to Australia, as do the British BBC and ITN networks. Since there appears to be no current concern that such sources are biased, it is difficult to place much credence in this fear.

Print media laws

If the concern is only over the domestic components and stories in network news and current affairs programs, the proposed electronic media ownership restrictions are inconsistent with existing print media laws, which do not limit foreign ownership in newspaper titles to 15 to 20 per cent.

The government has argued that print media rules are allowed to be different because barriers to the entry of new magazines and newspapers are low; consequently, high levels of foreign ownership are less important in the print media when opportunities exist for additional newspapers offering diverse opinions. But this argument is unrealistic. The Australian print media, particularly newspapers, do not display a high level of ownership diversity.

Newspaper readers generally have a very limited choice; many cities have only one dominant newspaper company, and even the largest have only two. In most cities there are limited opportunities for new entrants into the daily newspaper market.

The Hawke Government has allowed a high degree of foreign ownership of Australian newspapers. More than half of Australia's capital city daily newspapers are controlled by one company, whose principal shareholder is a foreign citizen. The government does not appear to fear foreign political bias in the newspapers. To place special restrictions on electronic media but not print media seems inconsistent.

The restriction on foreign ownership of Australian television is merely part of a more general problem. Government protection of the local television production industry is maintained by restricting competition. Such restrictions on the number of television stations and enforcement of Australian content rules ensure the subsidisation of domestic programming.

Program makers support the current restrictions on entry because the television viewer is unaware of the true cost of the system. Consumers are given restricted choice and respond by turning off. There is no support for the claim that Australians want more drama on television. Ratings for the Nine Network's drama serials in recent years suggest that consumers have sufficient drama without Nine's contributions while Nine's non-drama Australian programs rate highly. Regulations requiring the stations to broadcast children's drama have merely led to decreases in the viewing audience.

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If the government wishes to support a local television production industry it could do so through more visible mechanisms such as subsidies. The Australian government subsidises the Australian film industry without the use of quotas requiring that cinema show a certain proportion of Australian films. Similar mechanisms could apply to television production.

More licences

The government restricts entry into the television market by refusing to supply additional television licences. If there were more licences available, foreign ownership of some of these licences would be less of a concern.

Overseas, many cities the size of Sydney and Melbourne have a large number of television stations. Cable technology has eliminated the spectrum constraints that may have once been an entry barrier to new over-the-air television. Satellite broadcasting can also increase the number of channels available.

The Australian government has blocked entry of new television broadcasters in the major Sydney and Melbourne markets for over 25 years. A main reason for this has been to protect the viability of the existing television stations. In return for guarantees that competition would be restricted and reasonable profits could be earned, the commercial networks accepted government demands that they sponsor more local television production, especially drama production.

The arrangement appears to have been highly lucrative for the television owners. Advertising revenues grew each year and high profits were shared by the three commercial networks.

The demands by the current owners (and receivers) of the television networks for foreign equity intensified as the networks ceased to be profitable enterprises. Advertising revenue has not fallen; the networks are unprofitable because of the burden of interest payments. The new owners paid high prices and used borrowed funds to purchase their networks. The owners now want foreign equity rules relaxed so they can recapitalise, but they oppose the issue of any new licences. They claim that they will be unable to meet their Australian content requirements if additional competition is allowed.

Of course, the special interest lobbies firmly support both the restriction on additional television stations and the consequent restrictions of foreign ownership of the existing stations. Groups including the Australian Film Commission, Actors Equity, the Australian Theatrical and Amusement Employees Association, the Screen Production Association of Australia and the Australian Writers Guild issued a joint statement opposing foreign ownership.

Conclusion

The argument that restrictions on foreign ownership are necessary given the limited number of television broadcasters, is also inappropriate. In the next few years a number of new sources of programming will be available. Many of the services (for example Pay-TV) will compete against the existing networks but will probably not have the same ownership and programming regulations. Market shares of the existing networks will fall and their ability to subsidise local production will be reduced. Governments will be forced to find alternative means to assist the local production industry. Integration of Australian networks with global industry program distributors may increase rather than decrease local production and consequent 'identity'. Foreign ownership above the proposed 20 per cent limit to at least the 40 per cent limits which are used by the Foreign Investment Review Board as their benchmark for foreign control would not be inappropriate.

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