

## Briefing Paper: The next era of news media

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### Part 6 - Press freedom and whistleblowers ([full paper](#))

#### A worldwide trend

Globally, we are witnessing a period of intensified government interference in the media. Rhetoric around fake news, media bias and foreign hackers has given some politicians an avenue for discrediting news media and journalists they disagree with and, in some cases, seeking to weaken or take control of state-run media.

In Poland, for example, the Government passed law in 2016 allowing it to appoint and fire the heads of the public TV and radio stations and has since taken firm control of the broadcasters<sup>i</sup>. In Russia, 26 journalists have been murdered since Vladimir Putin became president in 2012. President Donald Trump joked with President Putin in their meeting in June 2019, saying “get rid of them [journalists]”<sup>ii</sup>. Worldwide last year, 54 journalists were killed, 250 were imprisoned and 63 are missing<sup>iii</sup>.

Australia is the only liberal democracy in the world without a Charter of Human Rights that would protect the media through rights for free speech and privacy. Since 2015, the Government has taken a range of measures that have, either intentionally or inadvertently, restricted media freedom and whistleblowing. Under pressure from Labor, which is calling for a parliamentary committee to review national security laws, Prime Minister Scott Morrison is consulting the media about a press freedom inquiry<sup>iv</sup>.

#### Raids, rules and reviews

On 4-5 June 2019, Australian Federal Police (AFP) officers conducted raids of News Corp journalist Annika Smethurst’s home and the ABC’s Sydney headquarters. 2GB presenter Ben Fordham was also notified by the Department of Home Affairs that he was the subject of an investigation. The investigations were in response to the publishing of “information classified as an official secret” relating to Ms Smethurst’s 2018 article about moves to empower the Australian Signals Directorate to covertly monitor Australian citizens, Mr Fordham’s reporting of intercepted boat arrivals and the ABC’s reporting of the 2017 Afghan files<sup>v</sup>.

The warrant used to search the ABC headquarters allowed the AFP to “add, copy, delete or alter” material in the ABC’s computers. The aim of the raids was widely considered to be to identify confidential sources and deter other potential whistleblowers<sup>vi</sup>.

The raids attracted worldwide media attention and criticism. Prime Minister Scott Morrison distanced the Government from the investigations. “The AFP conduct the investigations that they do on their own initiative and they’re the ones that should be commenting on their investigation,” he said<sup>vii</sup>.

The raids follow a series of legislative changes to boost national security that the media claims put journalists and their sources under threat. These include<sup>viii</sup>:

- **Metadata retention scheme (2015)** – requires that all metadata be kept for two years and can be covertly accessed by a range of government agencies without a warrant.

- **Journalist Information Warrant (2015)** – government agencies can gain access to a journalist’s metadata to identify a confidential source, provided the access has a particular criminal investigation or enforcement purpose and is in the public interest.
- **Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018** – requires the telecommunications industry to assist government agencies with investigations by installing vulnerabilities into devices, circumventing passwords or allowing encrypted communications to be decrypted.
- **New espionage, foreign interference and secrecy offences (2018)** – these include an offence for Commonwealth whistleblowers, who can be imprisoned for up to 10 years, and a general secrecy offence for communicating classified information obtained from a Commonwealth public servant.

In addition to pressures placed on the media in general, the public broadcasters have come under added scrutiny in relation to public funding. During the 2018/19 federal budget, the ABC received a \$83.7 million funding cut. According to ABC acting managing director David Anderson, it followed a \$250 million drop in the broadcaster’s budget since 2014. The ABC is expected to cut some programming as a result<sup>x</sup>.

A few months later, the Government commissioned an independent review into the ABC and SBS to determine whether they were enjoying an advantage against competitors in the private sector due to their taxpayer funding. The review was part of a deal made with One Nation to support media ownership reforms. The expert panel ultimately rejected the claims, finding that the ABC and SBS compete fairly with their rivals and do not overstep their charters<sup>x</sup>. At the same time, ABC managing director Michelle Guthrie was sacked by chairman Justin Milne, who later stepped down amid allegations he had bowed to government pressure to remove certain journalists. Ita Buttrose was appointed as chair<sup>xi</sup>.

### Media response

The Australian media has begun a coordinated effort to fight for press freedom. Both the ABC and News Corp are taking legal action against the AFP following the raids based on protections offered under the Constitution<sup>xii</sup>. Kerry O’Brien addressed the attacks on the ABC in his Logies speech, calling on the nation to protect “one of the most precious institutions we have”. Media outlets are running a joint *Journalism Is Not A Crime* campaign, publishing an open letter to the Government in several newspapers on 13 June 2019. It called for action from Parliament to “recognise and enshrine a positive public interest protection for whistleblowers and for journalists”<sup>xiii</sup>.

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#### ► Who said what?

**ABC acting manager director David Anderson, 9 April 2019<sup>xiv</sup>:**

*I do not believe that we'll be able to find that \$84 million without it somehow affecting our services to the Australian people. I do not believe it can be found through straight efficiency alone.*

**Former Labor leader Bill Shorten, 9 May 2019<sup>xv</sup>:**

*Because the ABC occasionally asks questions of the government they're going to wind back \$83 million. This government manages to find tens of millions of dollars for other media outlets.*

**News Corp Australia group executive for corporate affairs, policy and government relations Campbell Reid, 12 June 2019<sup>xvi</sup>:** *Rather than an inquiry, a better solution would be a working*

*group of senior politicians, media representatives and legal experts to work together to reframe legislation so it strikes the right balance between national security and the nation's right to know.*

**Inquiry into the Competitive Neutrality of the National Broadcasters, September 2018<sup>xvii</sup>:**

*Given their market shares, and other factors, this inquiry considers the National Broadcasters are not causing significant competitive distortions beyond the public interest.*

**Former Prime Minister Malcolm Turnbull, 27 September 2018<sup>xviii</sup>:**

*I want to be very clear, I have not complained and do not complain about left/right bias. My concern has been purely about the accuracy and impartiality of news and current affairs reporting on the ABC. I do believe it has deteriorated over recent years. Everybody is entitled to express their views about the ABC and ministers do and prime ministers have done always, and that's very important... In an era of social media and in an era of fake news... the ABC is more important than ever. But that is why it's vital that it has high standards of journalism, that its reporting is accurate and impartial.*

**The ABC's Ita Buttrose, 7 June 2019<sup>xix</sup>:**

*It is impossible to ignore the seismic nature of this week's events: raids on two separate media outfits on consecutive days is a blunt signal of adverse consequences for news organisations who make life uncomfortable for policy makers and regulators by shining lights in dark corners and holding the powerful to account.*

**Amnesty International's Claire O'Rourke, 28 June 2018<sup>xx</sup>:**

*By making it a crime to hold the Australian government to account on human rights, this bill will help shield government from accountability. These draconian laws proposed will make Australia more like the authoritarian countries this bill is supposed to protect us from.*

**Journalist Kerry O'Brien, 30 June 2019<sup>xxi</sup>:**

*There have been the tough times – the budget cuts to the ABC, again and again and again. Driven more by a desire to punish and by an ideological obsession than because the public broadcaster was inefficient. The ABC is still forging its way through strong headwinds, probably never threatened more than it is today.*

**Journalism Is Not A Crime campaign, 13 June 2019<sup>xxii</sup>:**

*A healthy democracy cannot function without its media being free to bring to light uncomfortable truths, to scrutinise the powerful and inform our communities. Investigative journalism cannot survive without the courage of whistleblowers, motivated by concern for their fellow citizens, who seek to bring to light instances of wrongdoing, illegal activities, fraud, corruption and threats to public health and safety.*

**New York Times journalist Damian Cave, 5 June 2019<sup>xxiii</sup>:**

*No other developed democracy holds as tight to its secrets, experts say, and the raids are just the latest example of how far the country's conservative government will go to scare officials and reporters into submission.*

BBC News Press Team, 5 June 2019<sup>xxiv</sup>:

*This police raid against our partners at ABC is an attack on press freedom which we at the BBC find deeply troubling. At a time when the media is becoming less free across the world, it is highly worrying if a public broadcaster is being targeted for doing its job of reporting in the public interest.*

Prime Minister Scott Morrison, 6 June 2019<sup>xxv</sup>:

*These are matters that were being pursued by the AFP operationally, at complete arm's length from the Government, not with the knowledge of the Government, not at the instigation of government ministers. These were matters that had been referred to the federal police some time ago, last year, preceding even my time as coming to be Prime Minister.*

Shadow Minister for Home Affairs Kristina Keneally, 12 June 2019<sup>xxvi</sup>:

*The perception of bias is a real risk now. Not only is there media apprehension about an attempt to intimidate reporting, there is also a concern that only leaks embarrassing the government merit investigation while those that benefit the government do not. The decision by the AFP to drop its investigation of a leak of classified ASIO information during the medevac debate has shocked many.*

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<sup>i</sup> BBC 2016, 'Polish media laws: Government takes control of state media', *BBC News*, 7 January, accessed 3 July 2019, <https://www.bbc.com/news/world-europe-35257105>

<sup>ii</sup> Borger, J 2019, 'Trump jokes to Putin they should 'get rid' of journalists', *The Guardian*, 28 June, accessed 3 July 2019, <https://www.theguardian.com/us-news/2019/jun/28/smirking-trump-jokes-to-putin-dont-meddle-in-us-election-g20>

<sup>iii</sup> Committee to Protect Journalists 2019, 'Journalists killed since 1992', Data & Research, accessed 3 July 2019, <https://cpi.org/>

<sup>iv</sup> Lewis, R 2019, 'Media demands legal shake-up, not an inquiry', *The Australian*, 12 June, accessed 8 July 2019, <https://www.theaustralian.com.au/nation/politics/media-demands-legal-shakeup-not-an-inquiry/news-story/56928b4d3a05e6c4bfb79908f32211cc>

<sup>v</sup> Ananian-Welsh R 2019, 'Why the raids on Australian media present a clear threat to democracy', *The Conversation*, 5 June, accessed 3 July 2019, <https://theconversation.com/why-the-raids-on-australian-media-present-a-clear-threat-to-democracy-118334>

<sup>vi</sup> Ananian-Welsh R 2019, 'Why the raids on Australian media present a clear threat to democracy'.

<sup>vii</sup> Molloy, S 2019, 'Radio star Ben Fordham targeted after Australian Federal Police raid political editor Annika Smethurst's home over spy story', *news.com.au*, 4 June, accessed 3 July 2019, <https://www.news.com.au/national/politics/australian-federal-police-raid-political-editor-annika-smethursts-home-over-spy-story/news-story/135c27ced2becde0333c0ef61d901007>

<sup>viii</sup> Ananian-Welsh R 2019, 'Why the raids on Australian media present a clear threat to democracy'.

<sup>ix</sup> AAP 2019, 'ABC unsure how to deal with cuts', *SBS News*, 9 April, accessed 3 July 2019, <https://www.sbs.com.au/news/abc-unsure-how-to-deal-with-cuts>

<sup>x</sup> Koziol, M and Duke, J 2018, 'ABC and SBS cleared by review into claims they compete unfairly with commercial rivals', *The Sydney Morning Herald*, 12 December, accessed 27 June 2019, <https://www.smh.com.au/politics/federal/review-clears-abc-and-sbs-over-claims-they-compete-unfairly-with-commercial-rivals-20181212-p50lpi.html>

<sup>xi</sup> Duke, J, Carmody, B and Koziol, M 2018, 'Michelle Guthrie: The inside story behind her sacking', *The Sydney Morning Herald*, 24 September, accessed 27 June 2019, <https://www.smh.com.au/business/companies/michelle-guthrie-the-inside-story-behind-her-sacking-20180924-p505ok.html>

- <sup>xii</sup> Mason, M 2019, 'ABC and News Corp are taking legal action to cancel warrants the Australia Federal Police used to raid the national broadcaster', *Business Insider*, 25 June, accessed 3 July 2019, <https://www.businessinsider.com.au/abc-news-corp-legal-action-cancel-warrants-used-by-afp-2019-6>
- <sup>xiii</sup> Blackiston, H 2019, '“Journalism is not a crime”: Media owners and journalists unite in press freedom campaign', *Mumbrella*, 14 June, accessed 3 July 2019, <https://mumbrella.com.au/journalism-is-not-a-crime-media-owners-and-journalists-unite-in-press-freedom-campaign-584214>
- <sup>xiv</sup> AAP 2019, 'ABC unsure how to deal with cuts'.
- <sup>xv</sup> AAP 2019, 'Government defends ABC budget cuts', *SBS News*, 9 May 2018, accessed 3 July 2019, <https://www.sbs.com.au/news/government-defends-abc-budget-cuts>
- <sup>xvi</sup> Lewis, R 2019, 'Media demands legal shake-up, not an inquiry'.
- <sup>xvii</sup> Expert Panel 2018, 'Inquiry into the Competitive Neutrality of the National Broadcasters—report by the Expert Panel', p. 11, Department of Communications and the Arts, September, accessed 3 July 2019, <https://www.communications.gov.au/documents/inquiry-competitive-neutrality-national-broadcasters-report-expert-panel>
- <sup>xviii</sup> Smith, R, Khalil, S and Molloy, S 2018, 'Embattled ABC chairman Justin Milne quits after days of chaos and damaging revelations', *news.com.au*, 27 September, accessed 3 July 2019, <https://www.news.com.au/finance/business/media/abc-crisis-continues-as-email-reveals-turnbull-asked-journalist-to-be-sacked-because-he-hated-him/news-story/9e1b0a18d602ffea145b215373f2a49a>
- <sup>xix</sup> Ita Buttrose 2019, 'ABC Chair Ita Buttrose's statement in full', *ABC News*, 7 June, accessed 3 July 2019, <https://www.abc.net.au/news/2019-06-07/ita-buttrose-statement-in-full-on-afp-raids-on-abc/11189266>
- <sup>xx</sup> AAP 2018, 'Sweeping changes to espionage, treason and secrecy laws as foreign interference bills pass', *SBS News*, 28 June, accessed 3 July 2019, <https://www.sbs.com.au/news/sweeping-changes-to-espionage-treason-and-secrecy-laws-as-foreign-interference-bills-pass>
- <sup>xxi</sup> O'Brien, K 2019, 'Kerry O'Brien defends the ABC and calls out media 'failures' in impassioned Logies speech', *ABC News*, 30 June, accessed 3 July 2019, <https://www.abc.net.au/news/2019-07-01/kerry-obrien-logies-hall-of-fame-speech-defends-abc/11266172>
- <sup>xxii</sup> Blackiston, H 2019, '“Journalism is not a crime”: Media owners and journalists unite in press freedom campaign'.
- <sup>xxiii</sup> Cave, D 2019, 'Australia May Well Be the World's Most Secretive Democracy', *New York Times*, 5 June, accessed 3 July 2019, <https://www.nytimes.com/2019/06/05/world/australia/journalist-raids.html>
- <sup>xxiv</sup> BBC 2019, 'ABC raid: Outcry as Australian police search public broadcaster', *BBC News*, 5 June, accessed 3 July 2019, <https://www.bbc.com/news/world-australia-48522729>
- <sup>xxv</sup> ABC 2019, 'Scott Morrison grilled on press freedom after AFP raids on ABC, journalist Annika Smethurst', *ABC News*, 6 June, accessed 3 July 2019, <https://www.abc.net.au/news/2019-06-06/scott-morrison-questioned-on-press-freedom-after-afp-raids/11184058>
- <sup>xxvi</sup> Keneally, K 2019, 'Those in power must be held to account when police raid reporters', *The Australian*, 12 June, accessed 8 July 2019, <https://www.theaustralian.com.au/commentary/those-in-power-must-be-held-to-account-when-police-raid-reporters/news-story/a84006511b952f82a7de7807eed395a2>