

# HOW THE CAMEL GOT IN THE TENT: THE CANADIAN ASSAULT ON AUSTRALIA'S FOREIGN MEDIA OWNERSHIP LIMITS

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## Abstract

*Before 1991, Australia enforced strict limits on foreign ownership of licensed broadcasters and also limited foreign ownership of newspaper publishers. In the early 1990s, however, a pair of Canadian entrepreneurs succeeded in first raising and then circumventing those limits. Conrad Black bought 15 per cent of the Fairfax newspaper chain in 1992, and shortly before the ensuing national election lobbied to increase his stake to 25 per cent. In his 1993 autobiography, Black described backroom political dealings that resulted in a Senate inquiry. The Australian Broadcasting Authority soon began an investigation into another Canadian challenging the country's foreign media ownership limits. Israel 'Izzy' Asper, a former tax lawyer, found a way to legally purchase 57.5 per cent of Network Ten in 1992 by holding 42.5 per cent in the form of non-voting debentures. The ABA absolved his CanWest Global Communications of controlling Network Ten in 1995. Non-voting shares were outlawed in 1997, but CanWest was allowed to retain its debentures. The inquiries into Canadian purchases contributed to a decade-long process of re-evaluating media ownership limits that resulted in restrictions on foreign ownership being eliminated in 2006.*

One cold night, as an Arab sat in his tent, a camel gently thrust his nose under the flap and looked in. 'Master,' he said, 'let me put my nose in your tent. It's cold and stormy out here.' 'By all means,' said the Arab, 'and welcome' as he turned over and went to sleep. (Grover and Webb, 1916: 82)

The parable of the camel and the tent, of course, ends badly for the accommodating Arab. The next time he is awoken, the animal has its neck inside, then its entire body. Soon there is no room for the Arab. The illustrated principle of incrementalism also applies in such metaphors as the 'domino effect', the 'thin edge of the wedge' and 'getting a foot in the door'. In law and public policy, arguments against adopting an action due to its inevitable future effects are known as 'slippery slope' arguments. More worrisome in public policy are slippery slope 'events', which commence an unstoppable descent toward an undesired result (Rizzo and Whitman, 2003). A few large multinational media owners have challenged the foreign ownership restrictions of national regulatory systems worldwide over the past two decades in order to expand their corporate reach. Rupert Murdoch's

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battles with regulators in the United States, United Kingdom and China have been well documented. A pair of Canadian entrepreneurs who also challenged foreign ownership rules in the mid-1990s, however, gained less global attention. Conrad Black and Izzy Asper were perhaps less visible than Murdoch in their assault on foreign media ownership limits because the nation they infiltrated was not a world power, but ironically Murdoch's native Australia. This paper chronicles the Canadian challenge to Australia's foreign ownership limits and argues that it was a slippery slope episode equivalent to the metaphoric camel's nose because it was influential in leading to the country lifting its restrictions on foreign media ownership in 2006.

## Existing research

Academic research on regulation of foreign media ownership has been limited, notes Zajacz (2004), because the topic falls into a grey area between several fields. Communication historians and policy researchers tend to ignore the international context, while scholars of international communication often fail to address domestic legislation. As a result, most of the research into the genesis of and justification for foreign media ownership limits has fallen to legal scholars. (Zajacz, 2004) According to Hollifield (1999), most countries have prohibited or limited foreign media ownership 'at least partly out of fear that foreign owners would use those outlets to manipulate public opinion in times of national crisis' (1999: 65). As a result, multinational media ownership was not widespread outside of consumer magazines before the late 1980s, and there is thus little research on the impact of foreign ownership. Literature on media ownership deregulation more generally, on the other hand, has been plentiful since the late 1980s. According to Horwitz (1989), the libertarian rhetoric of the Reagan era was underlaid by a commercial ethic that promised to unleash entrepreneurship by 'getting the government off the backs of the people' (1989: vii). As communications comprise the public sphere, however, the consequences of deregulation in these industries have ironically instead been equity based, with a vast reduction in diversity of viewpoints (Horwitz, 1989). Globalisation proponents have predicted that technical advances in communication that allow the digital transmission of information across borders will render national regulatory agencies obsolete (Giddens, 2000). Others, however, see an enduring role for the state in shaping global media markets, including in setting the citizenship requirements of national media owners (Wainsbord and Morris, 2001).

Australia began enforcing limits on foreign ownership of broadcasting starting in the 1920s, when licences for wireless radio transmitters were denied to non-British subjects (Given, 2002). The 1951 acquisition of Broadcasting Associates, which held several commercial radio licences, by UK-based MPA Productions prompted a parliamentary debate on foreign media ownership. A resulting resolution declared it 'undesirable that any person not an Australian should have any substantial measure of ownership or control of any Australian commercial broadcasting station' (Gray, 1990: 3). The 1955 report on television licensing by the Australian Broadcast

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Control Board suggested a 15 per cent limit on foreign ownership in that medium, which was incorporated in amendments to the *Broadcasting Act* the following year. The limit was imposed, according to Hitchens (2006), to ‘protect national sovereignty by preventing foreigners being able to influence domestic opinion’ (2006: 83). Foreign ownership of newspapers was governed more generally, along with other industries, by the Foreign Investment Review Board.

In late 1986, two major changes to media ownership laws were announced by the federal Labor government. Both had profound effects on the newspaper and television industries. One restricted cross-media ownership of newspapers and television stations in any market by placing a limit of 15 per cent on ownership of outlets in one of those media. That meant cross-media owners were forced to choose, in the words of then-Treasurer Paul Keating, between being ‘princes of print’ or ‘queens of the screen’. The resulting ownership scramble saw much of the country’s press bought, sold, traded or shut down over the next few months (Bowman, 1988). Rupert Murdoch chose print, selling Channel 10, but he soon became the king of newspapers in Australia by acquiring the Herald and Weekly Times group. Adding the country’s largest newspaper chain by far to his second-place News Corporation gave Murdoch more than 58 per cent of the country’s newspaper circulation and brought Australia’s concentration of press ownership to the highest in the world (Brown, 1993). The Labor government also lifted the two-station rule that had prevented television broadcasters from expanding into national networks, and a similar ownership upheaval visited that medium as a result. Combined with a sharp economic downturn, the increased competition resulted in what Griffen-Foley (2006) describes as a ‘media shakeout’ (2006: 98), with both the Nine Network and Network Ten going into receivership. The disarray in Australian media ownership opened the door for two opportunistic Canadians who offered their expertise in operating newspaper and television firms profitably.

## **Black and Asper**

Conrad Black and Israel ‘Izzy’ Asper had both divested investments in other industries to focus on their Canadian newspaper and television holdings respectively. Both expanded into international markets in part due to resistance in their native country to their management methods. Black owned a chain of small newspapers in Canada that he had hoped to expand, but he was thwarted in takeover bids for the country’s two largest chains in the early 1980s. Instead, he expanded overseas, buying the money-losing *Telegraph* in London for a bargain price in 1985. After moving to non-union operations at the paper’s new premises, almost three-quarters of the 3,900 *Telegraph* staff were cut from the payroll and the company’s finances quickly improved. From an annual loss of £8.9 million in 1986, the *Telegraph* recorded a profit of £41.5 million in 1989 (Siklos, 1996). Black’s company Hollinger International also expanded into the United States, building its subsidiary American Publishing Company into a chain of 340 small newspapers through more than 100 purchases totalling more than US\$300 million over a decade. Hollinger also bought the *Jerusalem Post*, Israel’s oldest and largest-circulation English-language daily, for US\$20 million in 1989.

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Black's next newspaper investment would result in him becoming what one biographer described as 'the central character in one of the most vicious and highly politicised takeover battles that Australia has ever seen' (Siklos, 1996: 241). The *Telegraph* joined a consortium in 1991 to buy John Fairfax Ltd, Australia's second-largest newspaper chain. The company had gone into receivership after a highly leveraged privatisation bid by heir Warwick Fairfax went awry due to an economic downturn. What was left of Fairfax equity was claimed by creditors. The *Telegraph* and US investment bank Hellman and Friedman together subscribed to 35 per cent of one rescue bid, codenamed Tourang, which was a level of foreign ownership beyond what the FIRB had approved previously. Irish newspaper owner Tony O'Reilly was part of another consortium vying for Fairfax that included 26 per cent foreign ownership. The Tourang bid was better capitalised, however, and had gained the approval and participation of Fairfax's American bondholders.

In addition to its level of foreign ownership, what made Australians nervous about Tourang was the presence in its consortium of the country's richest man, Nine Network owner Kerry Packer. While Packer stayed within the overall 15 per cent limit of cross-ownership, the Nine Network owned television stations in several markets where Fairfax published newspapers. His former lawyer, Malcolm Turnbull — now the federal opposition leader — also represented the American bondholders, and his former CEO, Trevor Kennedy, was proposed as Fairfax head. The Australian Journalists' Association protested that the appointment of Kennedy as Fairfax CEO meant Packer could control the newspaper chain. Former prime ministers Gough Whitlam and Malcolm Fraser also went public with their concerns (Ryan and Burge, 1992). Nearly 500 journalists protested in Sydney, handing out leaflets headlined 'A Black Day for Australia'. The group Friends of Fairfax demonstrated in Melbourne, asking people to close their accounts with the ANZ Bank, the company's main creditor, if the Tourang bid was accepted (Symons et al., 1991). Tourang dropped Turnbull and Kennedy, while Packer withdrew after the Australian Broadcasting Tribunal threatened to investigate the cross-media ramifications of his participation. Despite these concessions, Tourang was disqualified by Treasurer John Kerin, due to its level of foreign ownership.

The remaining Tourang principals reformulated their stakes in a structure devised by lawyers from the Sydney firm Freehills. Two types of ownership were proposed: voting common shares and non-voting debentures, a long-term debt instrument similar to a bond. The proposed 15 per cent investment in Fairfax by Hellman and Friedman would be held as non-voting debentures which, under the innovative proposal, would have been a foreign 'interest' but not foreign 'ownership'. Kerin again rejected the Tourang bid and approved that of the O'Reilly consortium, but the Treasurer was coincidentally fired the same day by Prime Minister Bob Hawke. The change in office allowed Tourang a reprieve prior to the bid deadline. In a last-minute rearrangement, Black reduced the *Telegraph's* proposed ownership of voting shares in Fairfax to 15 per cent and Hellman and Friedman slashed its participation to 5 per cent. The bondholders would own 6 per cent of Fairfax if their bid was accepted. That 26 per cent level of foreign voting ownership was the same as had been proposed by the O'Reilly group (Westfield, 2000). The Tourang bid was also favoured by creditor banks, which would be fully reimbursed under

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its terms, and new Treasurer Ralph Willis approved its reformulated offer in late 1991. Black took management control and set about reducing the chain's workforce by 10 per cent, which boosted Fairfax profits. A public offering of stock in May 1992 soon saw the Fairfax share price double, earning Black a paper profit of \$39 million within five months (Ryan and Burge, 1992).

Black claimed he had initially been told by Hawke and Kerin that 35 per cent foreign ownership of Fairfax would be acceptable, and he subsequently pressed the issue with Keating, who succeeded Hawke as prime minister (Senate, 1994). Prior to the 1993 national election, Black met with Keating about raising his ownership in Fairfax. The prime minister, according to Black, urged him to apply to the FIRB to raise his stake to 25 per cent, and he promised to personally 'champion' the bid. 'If he was re-elected and Fairfax political coverage was "balanced"', Black wrote in his 1993 autobiography, *A Life in Progress*, 'he would entertain an application to go higher.' Black added that opposition leader John Hewson had 'already promised that if he was elected he would remove restraints on our ownership' (quoted in Australia, 1994: 103–4). The Canadian edition of Black's memoirs makes no mention of exercising influence in foreign political affairs, recording only the recollection that Keating 'was entirely encouraging of our long-term presence in Australia' (Black, 1993: 471).

## Senate inquiry

The publication of Black's autobiography caused an uproar in Australia, as he had indeed been allowed to increase his stake in Fairfax to 25 per cent only weeks after Keating was re-elected. A Senate inquiry was called to investigate Black's account of political backroom dealing and the entire contentious Fairfax takeover. Witnesses painted Black in unflattering terms during proceedings that foreshadowed his ultimate legal downfall 13 years later. Turnbull described Black as an 'extraordinary egoist', which came as no news to anyone in Canada or England. 'He [has] almost no regard for telling the truth,' testified Turnbull. 'Black consistently overstates his role in things ... I don't believe his word can be trusted on matters where his own involvement is concerned.' (Olsen, 1994) Hawke concurred. 'The simple fact is that Conrad Black does not tell the truth,' he testified. 'He has the habit of distorting events through the prism of his own perceived self-interest.' (*Courier-Mail*, 12 April 1994) When Black took the witness stand, he testified that the entire affair had been a misunderstanding. 'There was no nudge, there was no wink, there was no undertaking,' he told the inquiry:

We are not lapdogs of any regime. Mr Keating was certainly not using the word balance as a euphemism for support or favouritism ... or as hostile to his enemies ... I do not know what else I can do to bury this putrid corpse, short of driving a silver stake through a copy of this committee's terms of reference. (Clausen, 1994)

Black called Turnbull 'notoriously unstable' and claimed Hawke had offered to spy on Keating for US\$50,000 (Clausen, 1994). Hawke went on television to deny the allegation and to muse about Black's own 'mental instability' (Cole, 1994). The Senate inquiry report concluded that Keating had indeed 'attempted

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to exert pressure at Fairfax for favourable election coverage by making a linkage between “balance” in election coverage and an increased ownership limit for Mr Black’ (Raethel, 1994). If a political disaster, Black’s efforts at raising Australia’s media ownership limits proved a financial windfall, as he sold his shares two years later to a New Zealand-based group partly owned by Asian investors for a reported profit of \$300 million (Dalglish, 1996). On exiting Australia, Black made some harsh comments about what he saw as the country’s fluid foreign ownership policies:

It’s not a politically mature jurisdiction and foreigners should understand what they’re getting into there. I’m not one who has an exaggeratedly lofty view of politicians, in general, but politicians in Australia as a group are at another level altogether. (Dalglish, 1996)

It was against this acrimonious backdrop that Asper began his own battle with Australian media regulators a few months later.

## **CanWest Rising**

A former tax lawyer and politician, Asper founded CanWest Global Communications with one television station in 1974. His CanWest Capital Corporation took the bankrupt regional network Global Television out of bankruptcy and turned it into Canada’s third national network. CanWest Global’s business model was based on what one scholar described as a ‘carefully constructed and fiercely defended regulatory freedom’ (Taylor, 1993: 469). It became Canada’s most profitable TV company in the 1980s by exploiting provisions in the country’s broadcasting regulations that provided revenue, and by avoiding others that required expenditure. Taylor concluded CanWest Global was ‘invisible to researchers’ because it did not fit the dominant network form, but it was nonetheless changing the nature of television in Canada due to the ‘unique and carefully crafted regulatory position’ (1993: 469) devised by its owners. CanWest Global exploited its junior status to the national networks CBC and CTV, noted Taylor, in order to reduce costs. Because it lacked outlets in several Canadian provinces, CanWest was exempt from some obligations endured by the national networks, such as transmitting into remote locations. By confining itself to the more lucrative urban markets, CanWest could skim the cream of advertising dollars because, as far as the broadcasting regulator Canadian Radio-Television and Telecommunications Commission (CRTC) was concerned, it was not a network, but instead a ‘system’. CanWest Global was also required by the CRTC to invest only C\$44 million in Canadian content for the 1990–91 programming season, which was half of CTV’s required expenditure (Taylor, 1993).

Airing more popular American content, which could often be purchased for 10 per cent of its production cost, made CanWest more profitable than the larger CTV, but its programming strategy resulted in CanWest being mocked as the ‘Love Boat Network’ (Fraser, 1999). CanWest took its template for financial success in the television business on to the international stage in the 1990s, first taking advantage of New Zealand’s near-complete deregulation of broadcasting. According to Comrie and Fountaine (2005), the New Zealand government removed

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foreign ownership restrictions expressly to allow CanWest to ‘rescue’ (2005: 104) bankrupt network TV3 in late 1991.

The media shakeout that followed the dropping of the two-station rule cast doubt on whether Australia could support three television networks. TEN was losing \$2 million a week in 1991, but Asper was anxious to apply the turnaround strategy he had pioneered in Canada and exported to New Zealand. As a foreigner, however, he was restricted by the *Broadcasting Act* to owning 15 per cent. He sought Australian investors for 85 per cent of the \$240 million asking price for Network Ten, but he was able to get commitments for only half that amount. Consultations with Freehills modified the short-lived non-voting equity model it had devised for Tourang, which provided the loophole in Australia’s foreign ownership rules that allowed CanWest to take equity in Ten as debt instead of as shares of ownership. The modified design, according to Westfield, was ‘an even more aggressive version’ (2000: 105) of the model that had been devised for Fairfax.

As a result, CanWest contributed 57.5 per cent of the purchase price but took only 15 per cent of the voting shares. It also held 42.5 per cent interest in the form of non-voting debentures that would pay an interest rate equivalent to Ten’s rate of profit (Edge, 2007). The Australian Broadcasting Authority, which recently had been conceived to replace the ABT, approved the arrangement in 1992. According to Westfield (2000), however, the structure allowed CanWest to ‘pull the wool over the eyes of the ABA’, with the result that the regulator was seen ‘as an easy touch’ from then on:

In any other industry a shareholding of this magnitude, whether it be voting or economic, would constitute clear control, but the fledgling Australian Broadcasting Authority later cleared CanWest of allegations that it controlled Ten, much to the amazement of the industry. (2000: 105)

## **Battling the ABA**

While conforming to the letter of the law, CanWest Global’s arrangement stretched the limits of credibility. Australian media regulations also prohibited foreigners from exercising control over television broadcasters, yet the manager of CanWest’s Global Television station in Vancouver moved to Sydney in 1993 as CEO of Network Ten. A complaint by the network’s former director of programming that Canadians were running Ten’s operations soon came to the attention of the ABA. It began an investigation that continued for more than a year, generated 950 pages of testimony, and subpoenaed 15,000 pages of documents (Levine, 2002). Network Ten earnings soared under CanWest management due to cost-cutting and programming changes, which saw the injection of cheap American programming, reaching \$103 million in 1995. As a result, CanWest more than recouped its entire Network Ten investment through stock dividends and debenture payments in three years. As the ABA inquiry dragged on through most of 1995, Asper expressed defiance towards the broadcasting regulator. He appeared on a Nine Network business program to complain that Australia’s media ownership laws lacked consistency due to the removal of restrictions on foreign ownership

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of radio stations in 1992. 'I can leave here as a non-Australian and buy a radio station in Sydney as a foreigner,' he said. 'Why can't I buy a television station?' (Sweetman, 1995) If the ABA forced it to sell its Ten debentures, Asper promised CanWest would expand into media sectors that were not so tightly regulated, mentioning cable television as a possibility. He also threatened to broadcast into Australia from the South Pacific:

From 1997 I can put a satellite up from Fiji. Whatever technology will permit, the laws can't stop. It will be done. If I can reach every home in this country from Fiji, there's no sense passing any laws about foreign ownership. (Cole, 1995)

Soon CanWest was absolved by the ABA, whose report cleared the Canadians of exercising control over Network Ten (Australian Broadcasting Authority, 1995). Despite the vindication, Asper threatened to pull out of the country, as changes proposed to Australia's media ownership laws by Liberal leader John Howard would allow no increase in foreign ownership. 'It may well be if the government of Australia doesn't want, for whatever reason, foreign ownership or foreign investment, or CanWest in particular,' Asper told ABC Radio. 'Well, obviously there are lots of places in the world where one can invest ... And reluctantly but certainly we would divest our interests in Network Ten and employ our resources where they are welcome.' (Lang, 1995)

Not only did CanWest remain in Australia, however, it quietly increased its ownership of Network Ten. In late 1996, ABA officials noted that four of the network's six minority shareholders had sold their Network Ten holdings to numbered companies based in Australia. Asper denied CanWest had increased its ownership of Ten. 'CanWest has not bought any shares in Network Ten whatsoever,' he told reporters (*Australian*, 19 December 1996). ABA investigators, however, found that the holding companies had bought the shares with money borrowed from a subsidiary of CanWest located in the Netherlands, and as a result CanWest was in a position to control 76 per cent of Ten. After a four-month investigation, the ABA ruled that CanWest was in breach of the law and gave the Canadians six months to sell the extra shares or face a \$2 million fine (Australian Broadcasting Authority, 1997). A separate investigation by the FIRB also demanded divestiture, 'irrespective of price' (Frith, 1997).

A 1996 change in government from Labor to a Liberal coalition led by Howard brought proposed changes to Australia's cross-media ownership laws, but not on foreign ownership — changes which the new prime minister opposed. Non-voting shares were also banned, meaning CanWest should have had to reduce its ownership of Ten to the 15 per cent limit allowed for foreigners. Asper flew to Canberra to lobby for an exemption from the new regulations. 'You don't change the ground rules retrospectively,' he told reporters. 'That is something that we civilised countries do not do.' (Mathieson, 1997a) As recounted by Asper, his message to Treasurer Peter Costello was more succinct: 'Let commerce rule, not the law.' (Brewster, 1997a) The dispute threatened to turn into an international incident when the Canadian government warned Australia it would consider the demand for divestiture by CanWest a breach of international treaty obligations



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(Davies, 1997). Asper took the dispute to the Federal Court, where his lawsuit was dismissed. He won a small victory, however, when the judge overruled the FIRB requirement that CanWest must sell at any price (Mathieson, 1997b). Still Asper pressed his case, appealing the ruling. ‘The man simply does not give up,’ marvelled *The Australian* of Asper’s ‘interminable game of snakes and ladders’ (Brewster, 1997b).

Finally a deal was struck in which, as part of a public listing for sale of Network Ten shares, CanWest’s debentures were exempted from the prohibition on non-voting shares. Broadcasting, foreign investment and stock market regulators had all ‘appeared powerless against Asper flouting the Australian law’, noted the *Australian Financial Review* (Ries, 1998). Ten’s share price soared, boosting CanWest’s five-year Network TEN investment 27 times over to A\$1.4 billion (Brehl, 1998). ‘With the benefit of hindsight,’ noted Westfield (1998), ‘this was the bargain of the decade.’ By the time of Asper’s death in 2003, the ingenuity of his Network Ten acquisition had become clear, according to *The Australian* (9 October 2003):

It was a brilliant design, and many potential foreign buyers of media assets pleaded to be able to ‘do a CanWest’ to get around pesky foreign ownership limits. After two inquiries, the federal government put a stop to any further ‘CanWests’. It remains a unique structure.

## Ownership rule changes

The Howard government’s proposed changes to cross-media ownership laws brought a decade-long revisiting of Australia’s media ownership regulations. Easing of the cross-ownership prohibition was opposed by many, who predicted such action would bring even higher ownership concentration if the media were not opened more widely to foreign ownership as well. CanWest’s ability to legally circumvent Australia’s foreign ownership limits was another reason advanced for abolishing them (Given, 2002). CanWest’s 1999 submission to the Productivity Commission criticised the limits as ‘outdated and unnecessary’, arguing that ‘foreigners have less reason to interfere in local domestic affairs because they are less likely to have a substantial range of other investments which could lead to the risk of conflicts of interest’ (Productivity Commission, 2000: 324). Noting a consensus among the commercial networks, the Productivity Commission’s report the following year urged lifting of both cross-media and foreign-ownership restrictions:

Restrictions on foreign investment and control restrict the options open to Australian media businesses. Australia is a small market within which to attract the sorts of interests who have the capital, skills and content rights to operate a large scale media business. Removing the foreign investment constraints opens up the capital market for television, and improves access to technology and managerial know how. (Productivity Commission, 2000: 334)

The debate over cross-media ownership in Australia was finally resolved in 2006 with the relaxation of the 1987 prohibition to allow cross-media ownership

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in two of three media — newspapers, radio and television — subject to a ‘diversity’ test. The political *quid pro quo*, however, was lifting of the country’s restrictions on foreign ownership of media as well. After the changes were quickly ‘rubber-stamped’ (Beecher, 2007: 9), a series of multi-billion-dollar transactions transformed the Australian media. Unexpectedly, none of those deals included CanWest selling its majority ownership in Network Ten to a domestic newspaper company. The lifting of foreign ownership restrictions allowed the company to formalise its control over the network by converting its debentures into voting shares, which it did (Trichur, 2007).

## After Australia

In the mid-1990s, Black and Asper turned their attention back to their native Canada, where their experiences would be similar to those in Australia. Black at first appeared to succeed, but in the end failed spectacularly. Asper steadily worked media ownership regulations to his advantage, and in the end much of Canadian media, including Black’s former holdings, belonged to CanWest (Edge, 2007). Black used the proceeds from his sale of Fairfax shares in 1996 to aid in finally taking over Canada’s largest newspaper chain, Southam Inc., which he had long coveted. After only a few years, however, he sold it to Asper after renouncing his Canadian citizenship to take a seat in the UK House of Lords. Hollinger International, which by the late 1990s ranked as the world’s third-largest newspaper chain (after News Corp. and the US chain Gannett), began to implode in 2003. Minority shareholders complained that asset sales, such as that of Southam to CanWest Global, unfairly enriched company insiders like Black because they included lucrative ‘non-compete’ agreements with the executives personally instead of with the company. Black resigned under pressure and an investigation counted more than US\$400 million that he and others had allegedly appropriated between 1997 and 2003, or more than 95 per cent of Hollinger International’s adjusted net income during that period (Edge, 2007). Black was convicted in Chicago on four counts of fraud and obstruction of justice in 2007, for which he was sentenced to six and a half years in a Florida prison (Arango, 2007).

Asper died in 2003 and left CanWest Global Communications to his three adult children, who were all trained as lawyers at his insistence. They saw its future in international markets and thus decided against selling their majority ownership of Network Ten in 2007 despite an earnings downgrade due to growing concern over the economy (Shoebridge, 2008). They also launched a challenge to Canada’s foreign media ownership laws in 2007, partnering with US investment bank Goldman Sachs to buy 13 cable television channels. The Americans put up 64 per cent of the C\$2.3 billion purchase price, a level well in excess of Canada’s foreign ownership limits in television, which directly and indirectly (through a holding company) were supposed to total 46.7 per cent. These two decisions may contain the seeds of CanWest Global’s demise, as the 2008 financial crash dropped advertising revenues sharply and the highly leveraged company became increasingly pressed to service its heavy debt load.

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## Conclusions

Black and Asper experienced markedly different outcomes from their respective challenges to Australia's media ownership regulations, perhaps as a result of their differing methods. Black engaged in political manipulation, while Asper instead shrewdly manipulated the country's ownership regulations. According to Flew (2001), a neo-liberal phase in Australian policy discourse began in 1992, with the result being the opening up of the broadcasting market at the expense of the public interest. Due to its short-term economic problems, Australia was perhaps ripe for the deregulation the Canadians urged, which was ultimately enshrined in the country's 2006 rewriting of media ownership limits. The activism of Black and Asper was undoubtedly instrumental in this change, as their strategy proved a 'slippery slope' episode in the history of Australian public policy. Irony is to be found, however, in Black's 2008 incarceration and in the ongoing financial deterioration of CanWest Global due to questionable dealings in other countries that ran them afoul of legal and economic forces, respectively.

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