

**CONSULTATION ON MEDIA OWNERSHIP RULES:
BECTU RESPONSE**



INTRODUCTION

1. BECTU welcomes the opportunity for discussion on media ownership policy. However, having responded to the Communications White Paper in January 2001, we now hope a Communications Bill will follow without too much further delay. We accept that media ownership is a particular and significant part of that broader debate.

COMPETITION LAW IS NOT ENOUGH

2. We strongly believe that media ownership cannot be addressed solely by means of competition policy:
 - As indicated in our White Paper response: 'The broader Cultural and democratic role of the media makes limits on excessive concentration particularly necessary'.
 - And in our response to the previous (1995) consultation on media ownership. "The power of the media in not just reflecting but forming opinions means that diversity of media ownership and the opportunity for a plurality of views and interests to be expressed is a prerequisite for any society with claims to be democratic. From this viewpoint, excessive media concentration is not just a matter of commercial monopoly but of a fundamental threat to a functioning democracy".
3. We can therefore agree with the Consultation Paper's own analysis that
 - 'the market alone, even regulated by competition law, is not thought to provide the best results for society and for democracy' (1.1).
 - research evidence, as in New Zealand, suggest that 'an almost completely deregulated market has led to a significant decline in the quality and diversity of programming' (1.5)
 - 'Competition law cannot...provide the certainty we need that a significant number of different media voices will continue to be heard, or that prospective new entrants to the market will be able to add their voice'. (1.10)
4. Specific regulation of media ownership continues, in our view, to be essential. Our views on the detailed options put forward in the paper are set out below, in the same general order.

GENERAL PROHIBITIONS:

Local Authorities, Advertising Agencies, Political Organisations

5. We have no objection to allowing local authorities to provide information services via television and radio, subject to the normal existing requirements (ie that they be non party-political in nature).
6. In the absence of a much broader debate on matters such as political party funding, we can see no immediately desirable alternative to retaining the current prohibition on ownership by political organisations.
7. We oppose any lifting of the prohibition of ownership by advertising agencies – not only in order to retain competition in the advertising market but also in order to keep as clear and transparent a distinction as possible between broadcasters/programme makers and the advertising sector. The danger of undue influence by the advertising sector on editorial policy, in our view, a risk which far outweighs any advantage of liberalisation in this area. We see no reason why the Government should need to respond to self-serving lobbying by a sector whose sense of self-importance is exceeded only by its opportunism.

FOREIGN OWNERSHIP

8. We note the proposal to retain the restrictions on non-European ownership of broadcasters.
9. We support this on a number of grounds:
 - The cultural and democratic arguments for supporting European content.
 - The likely alternative of a dominant position by American interests (as in cable, where such restrictions do not apply).
 - The practice in many other countries, including the US, of limiting foreign media ownership.
 - The particular threat, if such restrictions were lifted, to our current commitments to regionally-based production.

RELIGIOUS OWNERSHIP

10. We oppose any further relaxation of ownership restrictions on religious organisations. We see no justification whatsoever for access to media ownership by organisations which happen to reflect a religious as opposed to a secular world-view, especially when political organisations (many of which could claim equally strongly-held views on morality and policy) are disqualified.
11. Experience of religious media ownership in the US and elsewhere – with its overwhelmingly conservative influence on public debate – is not encouraging.
12. Rather than removing restrictions on ownership by religious organisations – which in effect places such organisations in a privileged position compared to secular groups – the Government should retain them in full.

TELEVISION

London ITV Licences/15% Audience Share Limit

13. We note the proposals to allow the single ownership of the two London Licences and to remove the 15% audience share limit. We regard these as key options deserving of very serious consideration as to whether and in exactly what circumstances they would be acceptable. The implication of implementing them is clearly that we could move, in the relatively near future, towards a single or overwhelmingly dominant ITV company – although we recognise that competition law could still be used to prevent a monopoly of TV advertising.
14. We do not, in principle, favour increased concentration of ownership in ITV. Many previous takeovers or mergers in the sector have been justified on the grounds that the companies concerned needed to grow in order to compete on the world market. Our attitude to this spurious argument remains as we expressed it in 1995: "None of the companies concerned have been noticeably more successful than before in exporting programmes, nor in international co-productions. The real benefit, from the companies' viewpoint, has been in terms of domestic economies of scale and market share – often at the expense of the job security and working conditions of those who work in the industry".
15. Our overwhelming concern about the prospect of further concentration in ITV is the threat this poses to the regional nature of the networks, which is its defining characteristic. We note with approval the Government's own analysis, in the Communications White Paper:
 - 'The distinctiveness and strength of ITV lies in its regional commissioning of new and quality programming.'
 - 'Strong regional production centres can create jobs, opportunities for training, and gateways into the creative industries at national level'.
 - 'Regional production can play a role in promoting vibrant and regenerative regional creative economies, and can help to address geographical imbalances within the national television production industry'.
16. The Consultation Paper acknowledges the concerns about loss of regional identity and content and points to the continued operation of licensing requirement for regional content and to the proposed tier 2 regulatory requirements including regional obligations.
17. We remain unconvinced that this is an adequate or reassuring response. From bitter experience even within the current, supposedly strong, regulatory regime, we have noted a significant dilution of the regional character of ITV (as set out in our White Paper response). **We therefore believe that any relaxation of ownership limits should only be contemplated in tandem with stronger and more specific commitments to regional ITV both on the face of the Bill and in related regulations.**
18. **Such commitments should include:**
 - **a broad range of regionally-originated programming of high quality and with a suitable proportion in peak time**
 - **the use of the full range of regionally-based staff, freelances and production facilities**

- **a minimum contribution to the network from each licence-holder in proportion to their size**

19. In terms of broadcast transmission functions we note the increasing trend towards consolidation. As with programme-making we have a strong preference for the dispersal of such functions on a regional basis. If there were ever to be consolidation into a single centre – which we would oppose – we believe such a transmission centre should be based outside London (since redeployment options are much more limited in other areas).
20. Without the strengthening of ITV regional commitments, as set out above, we believe the relaxation of ownership restrictions will have a serious and damaging impact on the regional character of the ITV network.

ITV/C5

21. In the light of all our general concerns about concentration of media ownership, we would certainly support a continued prohibition on the joint ownership of ITV and Channel 5 licences – thereby ensuring that there remain at least 4 separately-controlled providers of free-to-air analogue television services.

ITV News

22. We note the proposal to retain the nominated news provider system but with an enabling clause for its revocation. In our White Paper response we stated: 'We remain unconvinced that market forces alone could potentially be relied on to provide a quality news service as a commercial alternative to the BBC ..We believe that..the potential removal of the news provider system altogether would endanger the long term guarantee of a quality commercial news service ...Set against the risks and uncertainties involved, there simply seems no reason to provide for its abolition.' We see no reason to vary this view.
23. We further note the intention to relax the 20% limit on ownership of the nominated news provider. We believe that total removal of ownership limits might threaten the news providers' independence (if, for example, it was to become wholly-owned by a competitor). However, we recognise that for reasons of investment and good management, a further degree of liberalisation may be beneficial. We would not therefore oppose a relaxing of the ownership limits to 40%, thereby guaranteeing a minimum of 3 shareholders.

RADIO

24. We note the Government's consideration of abolishing the existing points system and relying solely on competition law. We further note that this coincides with the aims of the commercial radio lobby for ownership deregulation.
25. We remain unconvinced that the commercial radio sector's opposition to the points system has anything to do with the interests of listeners in a diverse and plural service. We believe it to be based on the narrowest of self-interest. The sector already has a very considerable concentration of ownership in the form of chains of stations across the UK. On the grounds of preserving a measure of

diversity and plurality, we see no justification for total abolition of the points system in respect of UK-wide ownership.

Local Concentrations of Ownership

26. For a long period now, ILR has been characterised by some as neither particularly 'independent' nor 'local'. We would therefore wish to see regulatory support for the maximum possible range of local content and identity in commercial radio. In the light of this we could support, as a minimum position, the requirement that 'in every local area with a well-developed choice of radio services there are at least 3 owners of ILR services in addition to the BBC.'

Other Issues

27. For reasons of preserving the maximum possible diversity and plurality and of limiting yet further concentration of radio ownership:
- We oppose any lifting of the disqualification from holding more than one national commercial radio licence.
 - We support the proposal that OFCOM ensures at least 3 owners of local digital licences and a plurality of ownership of multiplex licences.
 - We support OFCOM having the power to prevent the onward sale of licences for a 2 year period after their award, where a change of control might jeopardise the character of the service.

CROSS MEDIA-OWNERSHIP

28. We note the various options for consideration including retention of existing limits; abolition; reformulated or flexible limits; share of voice; and a plurality test.
29. Our concerns on media ownership deregulation, as set out in the Introduction, apply above all too cross-media issues. While there is certainly scope for a valid debate in the abstract, the immediate and pressing practical issue on cross-media ownership in the UK is the role of News International, with its extensive interests in both BSkyB and national newspapers.
30. If the Government genuinely holds the view, as indicated in the White Paper, that 'The broader cultural and democratic role of the media makes limits on excessive concentration particularly necessary', this surely argues against facilitating any further extension of ownership by News International in our terrestrial broadcasting sector – especially in a context in which the Government is already considering relaxation of ITV ownership limits. The prospect of a Murdoch-owned ITV licence is, in our view, undesirable in itself; the prospect that Murdoch ownership could extend to most or all of the ITV network is completely unacceptable. We therefore oppose any removal of the 20-20 rule ie the prohibition of a company with more than 20% of the national newspaper market from owning more than 20% of a terrestrial broadcaster.
31. We have not in the past been opposed to a more general examination of cross-media ownership rules and did indeed submit evidence on this issue to the 1995 Consultation. However, we believe the debate has still not moved beyond general and unformulated proposals. We see no practical prospect of a complete

rethinking of the approach to cross-media ownership within the (already long-drawn out) timescale for the Communications Bill; and we would oppose any further deferral of decisions on these issues.

32. In the light of this;
- We favour the retention of the existing limits on cross-media ownership.
 - We specifically favour the retention of the '20-20 rule'.
 - We very strongly oppose the option of abolishing cross-media ownership limits altogether.

REVIEW OF OWNERSHIP RULES

33. We note the options of automatic 2-yearly review by OFCOM; and of time-limited provisions which lapse unless Government goes through procedures to extend them. We recognise the supporting arguments emphasising the benefit of a flexible review system in a fast-changing industry.
34. However, we would wish OFCOM to focus on implementing and upholding current regulations rather than be subject to what could be a permanent lobbying exercise for deregulatory changes. We also continue to prefer that significant matters of media ownership are dealt with through primary legislation. We therefore do not support the proposals for 2 yearly review by OFCOM or for time-limited provisions.

CONCLUSION

35. We hope the Government will pay particular attention to the arguments on ownership regulation in ITV, and in particular to the need for stronger commitments to regional ITV as an absolute prior necessity if there is to be any relaxation of ownership restrictions in this area.